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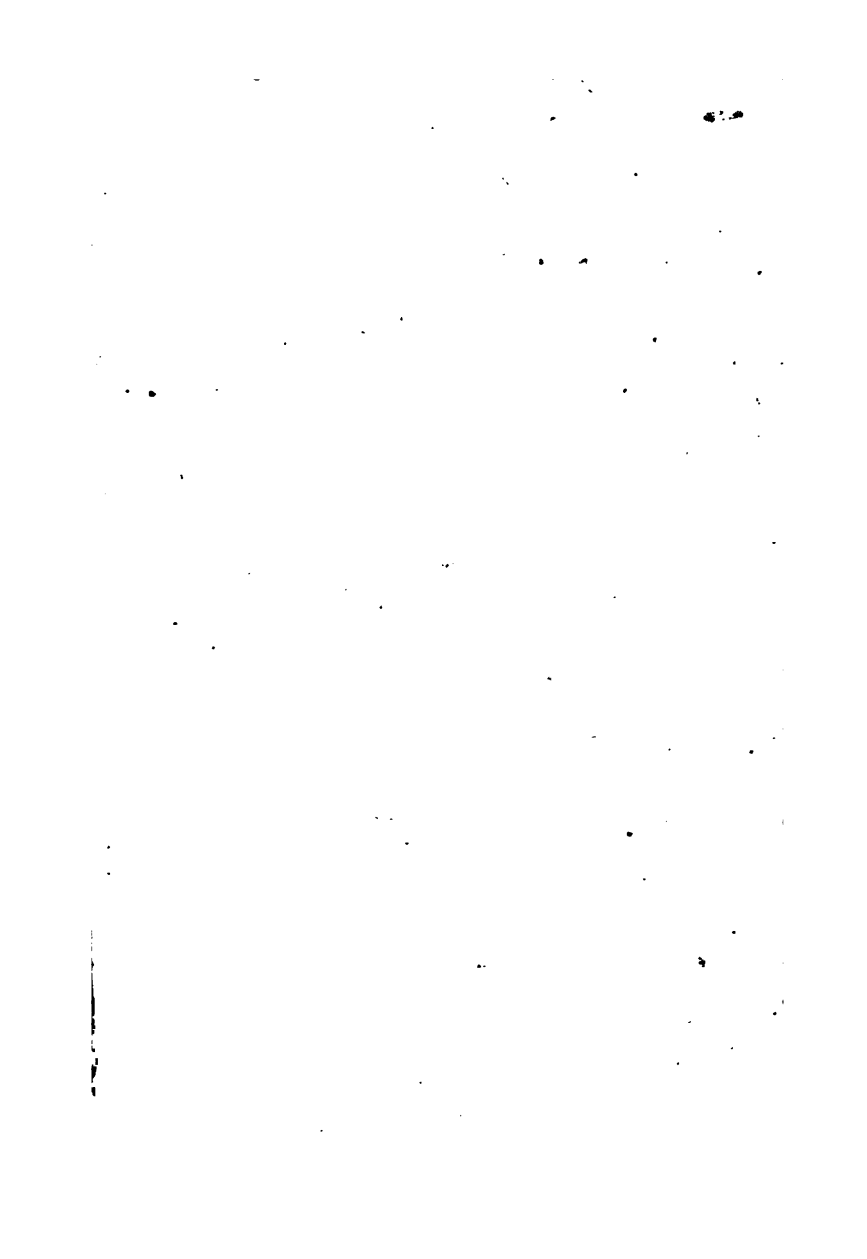
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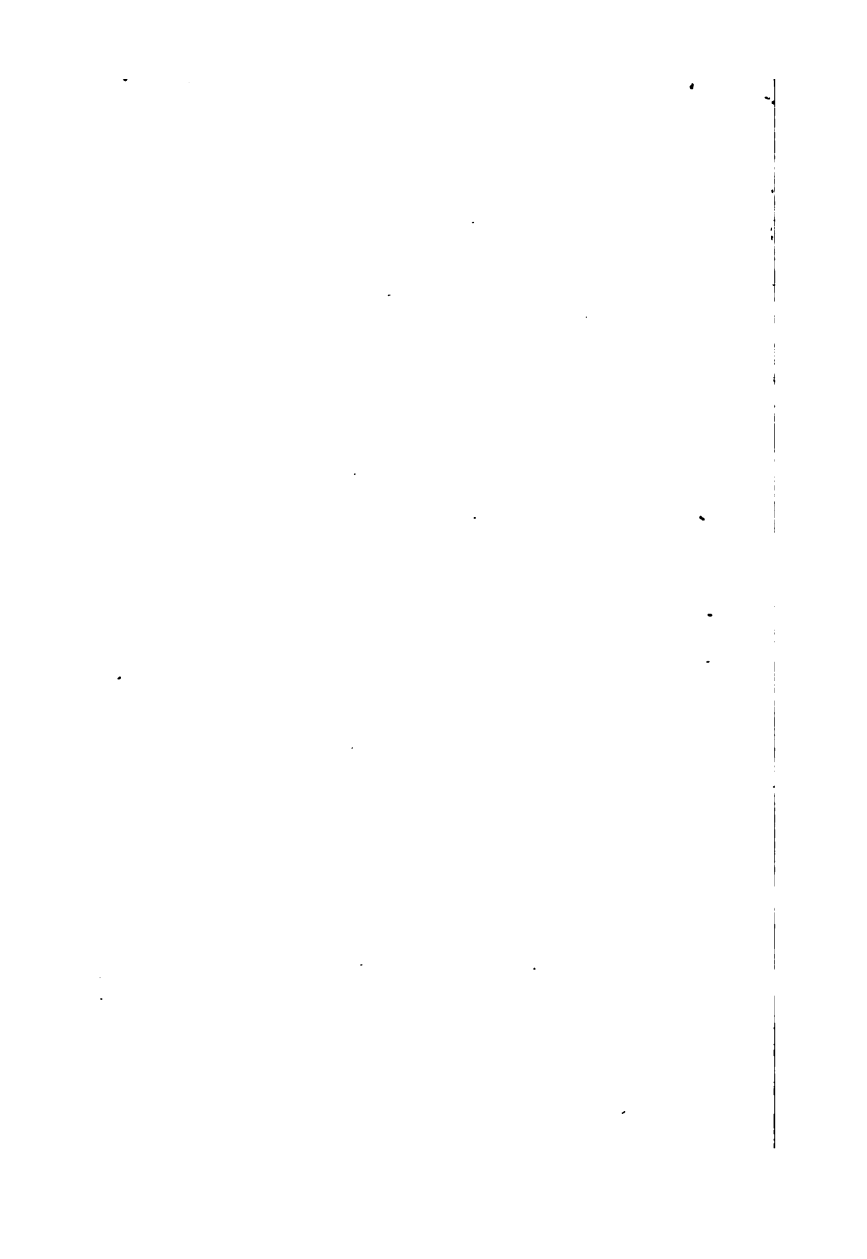
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AN  
ANALYSIS  
OF  
PALEY'S  
MORAL AND POLITICAL  
PHILOSOPHY,  
WITH  
EXAMINATION QUESTIONS  
AND SENATE-HOUSE PAPERS.

By THOMAS COWARD, M.A.,  
OF QUEENS' COLLEGE.

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Third Edition.

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# MORAL PHILOSOPHY.

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## BOOK I.

### PRELIMINARY CONSIDERATIONS.

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#### CHAP. I.

##### DEFINITION AND USE OF THE SCIENCE.

*a.* MORAL Philosophy, Morality, Ethics, Casuistry, Natural Law, mean the same thing; namely, *that science which teaches men their duty and the reasons of it.*

*b.* The use of such a study depends upon this, that, without it, the rules of life, by which men are ordinarily governed, oftentimes mislead them, through a defect either in the rule, or in the application.

*c.* These rules are, the Law of Honour, the Law of the Land, and the Scriptures.

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Define *Moral Philosophy*, and mention any other terms of the same import. *a.* Upon what does the use of such a study depend? *b.* What are the rules by which men are ordinarily governed? *c.*

## CHAP. II.

## THE LAW OF HONOUR.

*a.* The Law of Honour is a system of rules constructed by people of fashion, and calculated to facilitate their intercourse with one another; and for no other purpose.

Nothing, therefore, is adverted to by the Law of Honour, but what tends to incommode this intercourse. Hence it will be found,

*b.* 1. That this law only prescribes the duties *betwixt equals*; omitting such as relate to the Supreme Being, as well as those which we owe to our inferiors. For which reason, profaneness, neglect of public worship or private devotion, cruelty to servants, want of charity to the poor, with numberless examples of the same kind, are accounted no breaches of honour; because a man is not a less agreeable companion for these vices, nor the worse to deal with, in those concerns which are transacted between one gentleman and another.

2. That being constituted by men occupied in the pursuit of pleasure, and for the mutual conveniency of such men, it will be found to be, in most instances, favourable to the licentious indulgence of the natural passions. Thus it allows of fornication, adultery, drunkenness, duelling, and of revenge in the extreme; and lays no stress upon the virtues opposite to these.

What is the *Law of Honour*, and to what does it advert? *a.* Shew its defects and injurious tendency. *b.* 1, 2.

## CHAP. III.

## THE LAW OF THE LAND.

*a.* That part of mankind who are beneath the Law of Honour, often make the Law of the Land\*

\* The Law of the Land is, *that system of laws by which a nation is governed.*

their rule of life; *i. e.* they are satisfied with themselves, so long as they do or omit nothing, for the doing or omitting of which the law can punish them.

Whereas every system of human laws, considered as a rule of life, labours under two defects :

*b. 1.* Human laws omit many duties, as not objects of compulsion; such as piety to God, bounty to the poor, forgiveness of injuries, education of children, gratitude to benefactors. For the law never speaks but to command, nor commands but where it can compel; consequently those duties, which by their nature must be *voluntary*, are left out of the statute-book, as lying beyond its operation and authority.

*2.* Human laws permit, or suffer to go unpunished, many crimes, because they are incapable of being defined by any previous description; as luxury, prodigality, caprice in the disposition of men's fortunes, disrespect to parents, and a multitude of similar examples. For, either the law must define beforehand the offences which it punishes; or it must be left to the discretion of the magistrate, to determine upon each particular accusation, whether it constitute that offence which the law designed to punish; which is, in effect, leaving to him to punish at his pleasure, the individual that is brought before him; which is just so much tyranny. Where, therefore, as in the instances above mentioned, the distinction between right and wrong, is of too subtle a nature to be ascertained by any preconceived language, the law, especially of free states, leaves men to themselves.

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What is the *Law of the Land*, and by what part of mankind is it made the rule of life? *a.* Under what defects does every system of laws, considered as a rule of life, labour? *b. 1, 2.*



## CHAP. IV.

## THE SCRIPTURES.

a. We must not expect to find in the Scriptures a direction for every moral doubt. To what a magnitude such a detail of precepts would have enlarged the sacred volume, may be partly understood from the following consideration :—The laws of this country, including the acts of the legislature, and the decisions of supreme courts of justice, are not contained in fewer than fifty folio volumes ; and yet it is not once in ten attempts that you can find the case you look for in any law-book ; to say nothing of those numerous points of conduct, concerning which the law professes not to prescribe any thing. Had then the same particularity been attempted in the Scriptures, throughout the whole extent of morality, they would have been much too bulky to be either read or circulated ; or rather, as St. John says, “even the world itself could not contain the books that should be written.”

Morality is taught in Scripture in this wise :

b. General rules are laid down, of piety, justice, benevolence, and purity : such as, worshipping God in spirit and in truth ; doing as we would be done by ; loving our neighbour as ourself ; forgiving others, as we expect forgiveness from God ; that not that which entereth into a man, (nor, by parity of reason, any ceremonial pollutions,) but that which proceedeth from the heart, defileth him. These rules are occasionally illustrated, either by *fictional examples*, as in the parable of the good Samaritan, and of the cruel servant ; or in instances which actually presented themselves, as in Christ's reproof of his disciples at the Samaritan village, his praise of the poor widow, who cast in her mite, and his censure of the Pharisees who chose out the chief rooms ; or, lastly, in the resolution of questions, which those who were about

our Saviour proposed to him, as his answer to the young man who asked him, "What lack I yet?" and to the honest scribe who had found out that, "to love God and his neighbour, was more than all whole burnt-offerings and sacrifice."

c. And this is the way in which all practical sciences are taught, as Arithmetic, Grammar, Navigation, &c. Rules are laid down, and examples are subjoined: not that these examples are the cases, much less all the cases, which will occur; but by way only of explaining the principle of the rule, and as so many specimens of the method of applying it. The chief difference is, that the examples in Scripture are not annexed to the rules with the didactic regularity to which we are now-a-days accustomed, but delivered dispersedly, as particular occasions suggested them; which gave them an energy and persuasion, much beyond what any instances would have appeared with, in their places in a system.

d. Besides this, the Scriptures commonly presuppose a knowledge of the principles of natural justice; e. and are employed not so much to teach new rules of morality, as to enforce the practice of it by new sanctions, and by a greater certainty; which last seems to be the proper business of a revelation from God. Thus the "unjust, covenant-breakers, and extortioners," are condemned in Scripture, supposing it known, or leaving it, where it admits of doubt, to moralists to determine, what injustice, extortion, or breach of covenant are.

The above considerations are intended to prove,

First, That the Scriptures do not supersede the use of the science of Moral Philosophy. d.

Secondly, To acquit them of any charge of imperfection or insufficiency on that account. a.

---

We must not expect to find in the Scriptures a specific direction for every moral doubt. a. How is morality

taught in Scripture? *b.* In what respect does this differ from the way in which all practical sciences are taught? *c.* Do the Scriptures supersede the study of morality? *d.* For what end are they employed? *e.*

## CHAP. V.

### THE MORAL SENSE.

*a.* "The father of *C. Toranius* had been proscribed by the triumvirate. *C. Toranius* discovered to the officers in pursuit of his father's life, the place where he concealed himself, and gave them a description, by which they might distinguish his person. The old man, more anxious for the safety of his son, than about his own life, immediately inquired of the officers, whether his son was well, whether he had done his duty to the satisfaction of his generals. 'That son (replied one of the officers) betrayed thee to us; by his information thou art apprehended, and diest.' The officer with this, struck a poniard to his heart, and the unhappy parent fell, not so much affected by his fate, as by the means to which he owed it." Now if this story were related to a savage without experience, and without instruction, cut off in his infancy from all intercourse with his species, the question is, whether such a one would feel, upon the relation, any degree of *that sentiment of disapprobation of Toranius's conduct* which we feel, or not?

They who maintain the existence of a moral sense, *b.* (i.e. *innate maxims*; *a natural conscience*; *an instinctive love of virtue and hatred of vice*; *an intuitive perception of right and wrong*;) affirm that he would. They who deny the existence of a moral sense, &c. affirm that he would not; and upon this, issue is joined.

*c.* They who contend for the affirmative, observe, that we approve examples of generosity, gratitude, fidelity, &c., and condemn the contrary, instantly,

without deliberation, without having any interest of our own concerned in them, oft-times without being able to give any reason for our approbation : that this approbation is uniform and universal, the same sorts of conduct being approved or disapproved in all ages and countries of the world.

On the other hand, answers have been given to most of these arguments by the patrons of the opposite system : and,

d. 1. As to the *uniformity* above alleged, they controvert the fact. They remark, from authentic accounts of historians and travellers, that there is scarcely a single vice which, in some age or country of the world, has not been countenanced by public opinion : that in one country, it is esteemed an office of piety in children to sustain their aged parents ; in another, to despatch them out of the way : that suicide, in one age of the world, has been heroism, in another, felony : that theft, which is punished by most laws, by the laws of Sparta was not unfrequently rewarded : that the forgiveness of injuries is accounted by one sort of people magnanimity, by another meanness : that in the above instances, and perhaps in most others, moral approbation follows the fashions and institutions of the country we live in, —fashions and institutions which have grown out of the exigencies, the climate, or local circumstances, of the country ; or have been set up by the authority of an arbitrary chieftain, or the unaccountable caprice of the multitude :—all which, they observe, looks very little like the steady hand and indelible character of Nature.

2. Though after these exceptions and abatements, it cannot be denied but that some sorts of actions receive the esteem of mankind *more* than others ; and that the approbation of them is general though not universal : as to this they say, that the general approbation of virtue, even in instances where we have no

interest of our own to induce us to it, may be accounted for, without the assistance of a moral sense; thus: "Having experienced a particular conduct to be beneficial to ourselves, a sentiment of approbation rises up in our minds; which sentiment afterwards accompanies the mention of the same conduct, although the private advantage which first excited it no longer exist." And this continuance of the passion, after the reason of it has ceased, is no more, they say, than what happens in other cases; especially in the love of money, which is in no person so eager, as it is oftentimes found to be in a rich old miser, without family to provide for, or friend to oblige by it, and to whom consequently it is no longer of any real use or value. By these means the custom of approving certain actions *commenced*: and when once such a custom has got footing, it is no difficult thing to explain how it is transmitted and continued; viz. from authority, by imitation, and from a habit of approving such and such actions, inculcated in early youth, from censure and encouragement, from books, conversations, the current application of epithets, the general turn of language, &c. The efficacy of the principle of imitation is most observable in children; indeed their *propensity to imitation* almost amounts to instinct. Now there is nothing which children imitate more readily than expressions of affection and aversion, of approbation, hatred, resentment, and the like; and when these passions and expressions are once connected, which they soon will be, the passion will follow the expression, and attach upon the object to which the child has been accustomed to apply the epithet. In a word, when almost every thing else is learned by *imitation*, can we wonder to find the same cause concerned in the generation of our moral sentiments?

3. That there are no maxims in the science which can well be deemed *innate*, as none perhaps can be

assigned, which are absolutely and universally *true*; in other words, which do not *bend* to circumstances. Veracity, which seems, if any be, a natural duty, is *excused* in many cases towards an enemy, a thief, or a madman. The obligation of promises, which is a first principle in morality, depends upon the circumstances under which they were made;\* and so of most other general rules, when they come to be actually applied.

4. If we be prompted by nature to the approbation of particular actions, we must, they say, have received also from nature a distinct conception of the action we are thus prompted to approve; which we certainly have not received. But as this argument bears alike against all instincts, and against their existence in brutes as well as in men, it will hardly produce conviction, though it may be difficult to find an answer to it.

e. Upon the whole, it seems, either that there exist no such instincts as compose what is called the moral sense, or that they are not to be distinguished from prejudices and habits; on which account they cannot be depended upon in moral reasoning; *i.e.* it is not a safe way of arguing, to assume certain principles as so many dictates, impulses, and instincts of nature, and then to draw conclusions from these principles, as to the rectitude or wrongness of actions, independently of the tendency of such actions, or of any other consideration whatever.

f. Aristotle lays down, as a fundamental maxim, that nature intended barbarians to be slaves; and deduces from it a train of conclusions, calculated to justify the policy that then prevailed. Now, nothing is so soon made, as a maxim; and it appears from the example of Aristotle, that authority and convenience, education, prejudice, and general practice, have no

\* See Book III. Part I. Chap. v.

small share in the making of them ; and that the laws of custom are very apt to be mistaken for the order of nature. Hence there is reason to suspect, that a system of morality, built upon instincts, will only find out reasons and excuses for opinions and practices already established,—will seldom correct or reform either.

---

How does Paley state the question as to a *moral sense*? *a.* What is meant by a *moral sense*? *b.* What arguments do they, who contend for the affirmative, advance? *c.* How do their opponents refute these arguments? *d.* 1—4. What is Paley's conclusion? *e.* Illustrate the fallacy of maxims. *f.*

## CHAP. VI.

### HUMAN HAPPINESS.

*a.* The word *happy* is a relative term : that is, when we call a man happy, we mean that he is happier than some others with whom we compare him, than the generality of others ; or than he himself was in some other situation. In strictness, however, any condition may be denominated happy, in which the aggregate of pleasure exceeds that of pain ; and the degree of happiness depends upon the quantity of this excess ; and the greatest quantity of it ordinarily attainable in human life, is what we mean by happiness, when we inquire or pronounce what human happiness consists of.

It will be our business to shew,

I. In what human happiness does not consist.

*b.* 1. It does not consist in the pleasures of sense, in whatever profusion or variety they be enjoyed. By the pleasures of sense are meant, as well the animal gratifications of eating and drinking, as the more refined pleasures of music, painting, architecture, gardening, theatrical exhibitions ; and the pleasures

of active sports, as of hunting, shooting, fishing, &c. For,

i. These pleasures continue but a little while at a time. This is true of them all, especially of the grosser sort.

ii. These pleasures, by repetition, lose their relish. It is a property of the machine, for which we know no remedy, that the organs, by which we perceive pleasure, become blunted and benumbed by being frequently exercised in the same way.

iii. The eagerness for high and intense delights takes away the relish from all others; and as such delights fall rarely in our way, the greater part of our time becomes, from this cause, empty and uneasy.

2. It does not consist in an exemption from pain, labour, care, business, &c.; such a state being usually attended, not with ease, but with depression of spirits, imaginary anxieties, and the whole train of hypochondriacal affections. Hence the expectations of those who retire from their shops and counting-houses, to enjoy the remainder of their days in leisure and tranquillity, are seldom answered in the effect. Where there exists a known external cause of uneasiness, the cause may be removed, and the uneasiness will cease. But those imaginary distresses which men feel for want of real ones, as they depend upon no single or assignable subject of uneasiness, admit oftentimes of no application of relief.

3. It does not consist in greatness, rank, or elevated station.

Were it true that all superiority afforded pleasure, it would follow, that the more persons we were superior to, in the same proportion we should be happier; but so it is, that no superiority yields any satisfaction, save that which we possess over those with whom we immediately compare ourselves. The shepherd perceives no pleasure in his superiority over his dog;



the farmer, over the shepherd; the lord, over the farmer; nor the king, over the lord. Superiority, where there is no competition, is seldom contemplated. But if the same shepherd can run, fight, or wrestle, better than the peasants in his village; if the farmer can shew better cattle, or be supposed to have a longer purse, than any farmer in the hundred; if the lord have more interest in an election, or a larger estate than any nobleman in the country; if the king possess a more extensive territory, a more powerful fleet or army, or more weight and authority in adjusting the affairs of nations, than any prince in Europe;—in all these cases, the parties feel an actual satisfaction in their superiority.

Hence it follows that the pleasures of ambition, supposed to be peculiar to high stations, are in reality common to all conditions. Thus the farrier who shoes a horse better than any man within ten miles of him, possesses the delight of distinction and of excelling, as truly and substantially as the statesman, the soldier, and the scholar, who have filled all Europe with the reputation of their wisdom, their valour, or their knowledge. No superiority appears to be of any account, but superiority over a rival. This may exist wherever rivalships do; and rivalships fall out among men of all classes. The dignity or magnitude of the object of emulation makes no difference; as it is not what either possesses that constitutes the pleasure, but what one possesses more than the other.

II. In what human happiness does consist.

d. By reason of the diversity of taste, capacity, and constitution, in the human species, and the still greater variety, which habit and fashion have introduced, it is impossible to propose any plan of happiness which will succeed to all, or any method of life which is universally eligible. All that can be said is, that there remains a presumption in favour of those

conditions of life, in which men appear most cheerful and contented. For though the apparent happiness of mankind be not always a true measure of their real happiness, it is the best measure we have.

Taking this, then, for our guide, we are inclined to believe that happiness consists,

c. 1. In the exercise of the social affections.

Those persons commonly possess good spirits, who have about them many objects of affection and endearment, as wife, children, kindred, friends. And to the want of these may be imputed the peevishness of monks, and of such as lead a monastic life.

Of the same nature with the indulgence of our domestic affections is the pleasure which results from acts of bounty and beneficence.

2. In the exercise of our faculties, either of body or mind, in the pursuit of some engaging end.

It seems to be true, that no plenitude of present gratifications can make the possessor happy for a continuance, unless he have something in reserve,—something to hope for, and look forward to. This we may conclude from comparing the alacrity and spirits of men who are engaged in any pursuit which interests them, with the dejection and *ennui* of almost all, who are either born to so much that they want nothing more, or who have *used up* their satisfactions too soon, and drained the sources of them. It is this vacuity of mind, which carries the rich and great to the race-course and gaming-table; and often engages them in contests and pursuits of which the success bears no proportion to the solicitude and expence with which it is sought. Hope, which thus appears to be of so much importance, to our happiness, is of two kinds;—where there is something to be done towards obtaining the object of our hope, and where there is nothing to be done. The first alone is of any value; the latter being apt to corrupt into impatience, having no power but to sit still and wait, which soon grows

tiresome, How to provide ourselves with a succession of pleasureable engagements, is the difficulty. This requires two things: judgment in the choice of *ends* adapted to our opportunities; and a command of imagination, so as to be able, when the judgment has made choice of an end, to transfer a pleasure to the *means*: after which, the end may be forgotten as soon as we will. Hence those pleasures are most valuable, not which are most exquisite in the fruition, but which are most productive of engagement and activity in the pursuit. A man, therefore, who is in earnest in his endeavours after the happiness of a future state, has, in this respect, an advantage over all the world; for he has constantly before his eyes an object of supreme importance, productive of perpetual engagement, and of which the pursuit lasts him to his life's end. Engagement is every thing: the more significant however, our engagements are, the better. Whilst our minds are taken up with the objects or business before us, we are commonly happy, whatever the objects be; when the mind is *absent*, and the thoughts are wandering to something else than what is passing in the place in which we are, we are often miserable.

### 3. In the prudent constitution of the habits.

The art in which human happiness in a great measure consists, is to *set* the habits in such a manner, that every change may be for the better. The habits are much the same; for, whatever is made habitual, becomes smooth, easy, and nearly indifferent. The return to an old habit is likewise easy, whatever the habit be. Therefore, the advantage is with those habits which allow of an indulgence in the deviation from them. The luxurious receive no greater pleasure from their dainties, than the peasant does from his bread and cheese; but the peasant, whenever he goes abroad, finds a feast; whereas the epicure must be well entertained, to escape disgust. Those who spend

every day at cards, and those who go every day to plough, pass their time much alike: intent upon what they are about, wanting nothing, regretting nothing, they are both for the time in a state of ease: but then, whatever suspends the occupation of the card-player, distresses him; whereas to the labourer, every interruption is a refreshment; and this appears in the different effects that Sunday produces upon the two, which proves a day of recreation to the one, but a lamentable burthen to the other.

4. In health. By health is meant, as well freedom from bodily distempers, as that tranquillity, firmness, and alacrity of mind, which we call good spirits. Health, in this sense, is the one thing needful. Therefore, no pains, expence or restraint, to which we subject ourselves for the sake of health, is too much. When we are in perfect health and spirits, we feel in ourselves a happiness independent of any outward gratification, and of which we can give no account. This is an enjoyment which the Deity has annexed to life; and it probably constitutes, in a great measure, the happiness of infants and brutes, especially of the lower and sedentary orders of animals, as of oysters, periwinkles, and the like.

The above account of human happiness will justify the two following conclusions:—

*f. First*, that happiness is pretty equally distributed amongst the different orders of civil society:

*Secondly*, that vice has no advantage over virtue, even with respect to this world's happiness.

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What is meant by the term *happy*? *a.* In what does human happiness not consist? *b.* 1—3. The pleasures of happiness are common to all conditions of life. *c.* What makes it impossible to propose any plan of happiness which will succeed to all? *d.* In what does happiness consist? *e.* 1—4. What conclusions will Paley's account of human happiness justify? *f.*

## CHAP. VII.

## VIRTUE.

a. VIRTUE is “the doing good to mankind, in obedience to the will of God, and for the sake of everlasting happiness.” Hence, “the good of mankind” is the subject; the “will of God,” the rule; and “everlasting happiness,” the motive, of human virtue.

b. Virtue has been divided by some moralists into *benevolence*, *prudence*, *fortitude*, and *temperance*. *Benevolence* proposes good ends; *prudence* suggests the best means of attaining them; *fortitude* enables us to encounter the difficulties which stand in our way in the pursuit of these ends; *temperance* repels and overcomes the passions that obstruct it.

Virtue is distinguished by others into *prudence* and *benevolence* only; *prudence*, attentive to our own interests; *benevolence*, to that of our fellow-creatures: both directed to the same end, the increase of happiness in nature.

c. The four CARDINAL virtues are, *prudence*, *fortitude*, *temperance*, and *justice*.

d. But the division of virtue, to which we are in modern times most accustomed, is into duties;—

i. Towards *God*; as piety, reverence, resignation, gratitude, &c.,

ii. Towards *other men* (or relative duties); as justice, charity, fidelity, loyalty, &c.

iii. Towards *ourselves*; as chastity, sobriety, temperance, preservation of life, care of health, &c.

Here it may be proper to state a few observations, which relate to the general regulation of human conduct; unconnected indeed with each other, but very worthy of attention.

I. Mankind act more from habit than reflection.

e. It is on few only and great occasions that men deliberate at all ; on fewer still, that they institute a regular inquiry into the moral rectitude or depravity of what they are about to do ; or wait for the result of it. We are for the most part determined at once, and by an impulse, which is the effect of pre-established habits. And this constitution seems well adapted to the exigencies of human life, and to the imbecility of our moral principle. In the current occasions and rapid opportunities of life, there is often little leisure for reflection ; and were there more, a man who has to reason about his duty, when the temptation to transgress it is upon him, is almost sure to reason himself into an error.

If we are in so great a degree passive under our habits ; where it is asked, is the exercise of virtue, and the guilt of vice, or any use of moral and religious knowledge ?

*Ans.* In the *forming and contracting* of these habits. And hence results a rule of life of considerable importance, viz. that many things are to be done and abstained from, solely for the sake of habit.

f. A beggar, for instance, with the appearance of extreme distress, asks our charity. If we argue the matter, whether the distress be real, whether it be not brought upon himself, whether it may not invite impostors to our doors, whether the money might not be better applied ; it may appear very doubtful, whether we ought or ought not to give anything. But when we reflect, that the misery before our eyes excites our pity, whether we will or not ; that it is of the utmost consequence to cultivate this tenderness of mind ; that it is a quality, cherished by indulgence, and soon stifled by opposition ; a wise man will do that for his own sake, which he would have hesitated to do for the petitioner's ; he will give way to his compassion, rather than offer violence to a habit of so much general use. A man of confirmed good habits,

will act in the same manner without any consideration at all.

From what has been said, may be explained the nature of *habitual* virtue.

g. By the definition of virtue, it appears that "the good of mankind" is the subject, "the will of God" the rule, and "everlasting happiness" the motive and end, of all virtue. Yet, in fact, a man shall perform many an act of virtue, without having either the good of mankind, the will of God, or everlasting happiness, in his thought. How is this to be understood? In the same manner that a man may be a very good servant, without being conscious, at every turn, of a particular regard to his master's will or of an express attention to his master's interest: but then he must have served for a length of time under the actual direction of these motives, to bring it to this; in which service, his merit and virtue consist.

There are *habits*, not only of drinking, swearing, lying, and of some other things, which are commonly acknowledged to be habits, and called so; but of every modification of action, speech, and thought. Man is a bundle of habits. There are habits of industry, attention, vigilance; of extending our views to the future, or of resting upon the present; of apprehending, methodizing, reasoning; of indolence and dilatoriness; of vanity, melancholy, partiality; of pride, ambition, covetousness; of overreaching, intriguing, projecting: in a word, there is not a quality or function, either of body or mind, which does not feel the influence of this great law of animated nature.

II. The Christian religion has not ascertained the precise quantity of virtue necessary to salvation.

h. This has been made an objection to Christianity; but without reason. For as all revelation, however imparted originally, must be transmitted by language,

it behoves those who make the objection, to show that any form of words could be devised that might express this *quantity*; or that it is possible to constitute a standard of moral attainments, accommodated to the almost infinite diversity which subsists in the capacities and opportunities of different men. It seems, however, most agreeable to our conception of justice, and is consonant enough to the language of Scripture,\* to suppose, that there are prepared for us rewards and punishments, of all possible degrees, from the most exalted happiness down to extreme misery; so that "our labour is never in vain;" whatever advancement we make in virtue, we procure a proportionable accession of future happiness; as, on the other hand, every accumulation of vice is the "treasuring up so much wrath against the day of wrath." It has been said, that it can never be a just economy of Providence, to admit one part of mankind into heaven, and condemn the other to hell; since there must be very little to choose, between the worst man who is received into heaven, and the best man who is excluded. And how know we, it might be answered, but that there may be as little to choose in the conditions?

Without entering into a detail of Scripture morality, the following *general positions* may be advanced with safety:—

k. 1. That a state of happiness is not to be expected by those, who are conscious of no moral or religious rule; i.e. by those who cannot with truth say, that they have been prompted to one action, or withholden from one gratification, by any regard to virtue or religion, either immediate or habitual.

For a brute would be as proper an object of reward as such a man, and, if the case were so, the penal sanctions of religion could have no place.

\* 2 Cor. ix. 6. Luke xii. 47, 48. Mark ix. 41.



Whom would you punish, if you make such a one as this happy?—or rather indeed religion itself would cease to have either use or authority.

2. That a state of happiness is not to be expected by those, who reserve to themselves the habitual practice of any one sin, or neglect of one known duty. Because,

i. No obedience can proceed upon proper motives, which is not universal, that is, which is not directed to every command of God alike, as they all stand upon the same authority.

ii. Such an allowance would in effect amount to a toleration of every vice in the world.

iii. The strain of Scripture language excludes any such hope. When our *duties* are recited, they are put *collectively*, that is, as all and every one of them required in the Christian character.\* On the other hand, when *vices* are enumerated, they are put *disjunctively*, that is, as severally excluding the sinner from heaven.† Those texts of Scripture, which seem to lean a contrary way, as that “charity shall cover the multitude of sins,” cannot be extended to sins deliberately, habitually, and obstinately persisted in.

3. That a state of mere unprofitableness will not go unpunished.

This is expressly laid down by Christ, in the parable of the talents, which supersedes all further reasoning upon the subject.‡

III. In every question of conduct, where one side is doubtful, and the other safe; we are bound to take the safe side.

1. This is best explained by an instance, as that of suicide. Suppose it should appear doubtful to a reasoner upon the subject, whether he may lawfully destroy himself. He can have no doubt that it is lawful for him to let it alone. Here is a case in

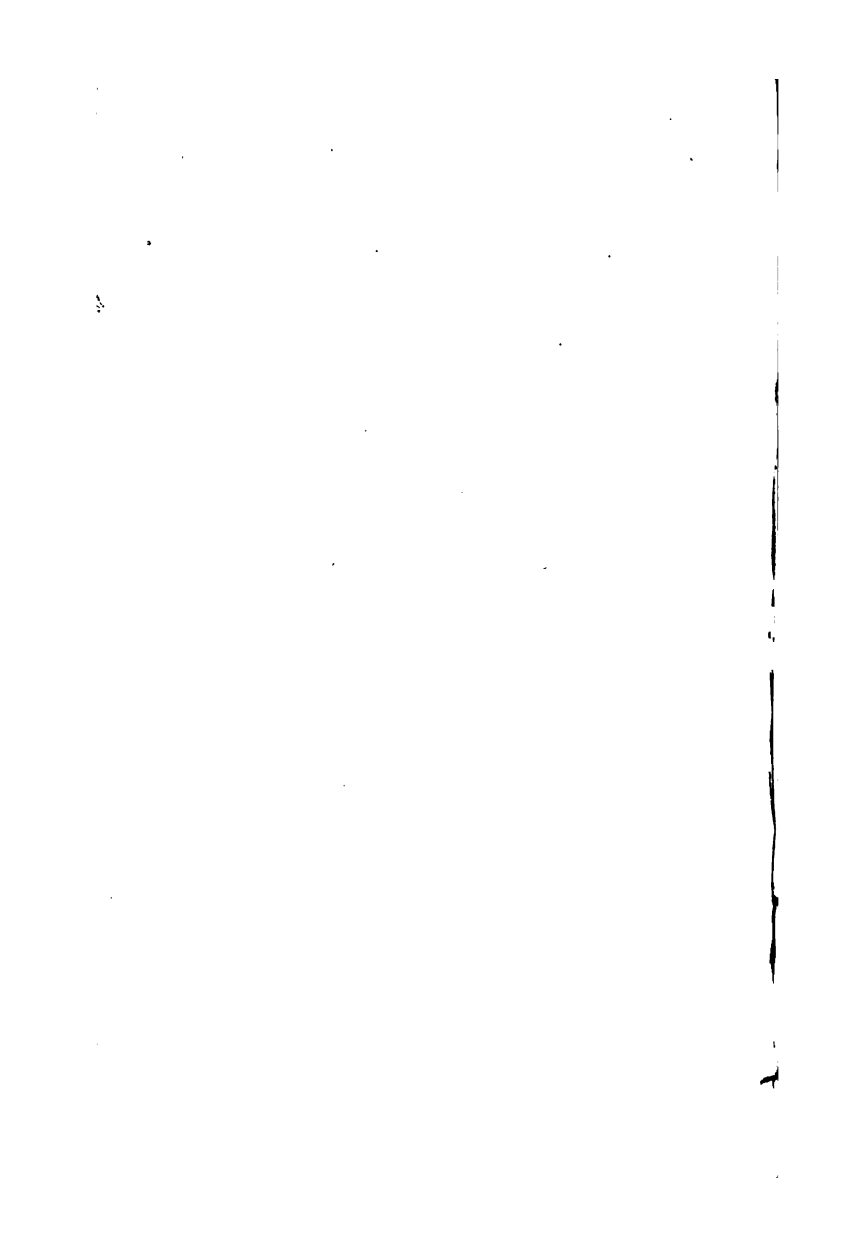
\* 2 Pet. i. 5—7.† 1 Cor. vi. 9, 10. ‡ Matt. xxv. 24—30.

which one side is doubtful, and the other safe. By virtue therefore of our rule, he is bound to pursue the safe side, that is, to forbear from offering violence to himself, whilst a doubt remains upon his mind concerning the lawfulness of suicide. An action concerning which we doubt, whatever it may be in itself, or to another, would, in *us*, whilst this doubt remains, be certainly sinful. The case is expressly so adjudged by St. Paul :—"I know and am persuaded by the Lord Jesus, that there is nothing unclean of itself; but *to him that esteemeth any thing to be unclean, to him it is unclean*. Happy is he that condemneth not himself in that thing which he alloweth; and he that doubteth is damned (*condemned*) if he eat, for whatsoever is not of faith, (*i.e.* not done with a full persuasion of the lawfulness of it) is sin."\*

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Define virtue. *a.* How has virtue been divided by different moralists? *b.* What are the four *cardinal* virtues? *c.* What is the division of virtue to which we are most accustomed? *d.* Mankind act more from habit than reflection. *e.* Illustrate the rule "that many things are to be done, and abstained from, solely for the sake of habit." *f.* Explain the nature of *habitual* virtue. *g.* Answer the objection "that the Christian religion has not ascertained the precise quantity of virtue necessary to salvation." *h.* What general positions may be safely advanced in reference to Scripture morality? *h.* 1-3. Explain the rule "that in every question of conduct we are bound to take the safe side." *i.*

\* Rom. xiv. 14, 22, 23.



## BOOK II.

### MORAL OBLIGATIONS.

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#### CHAP. I.

THE QUESTION, "WHY AM I OBLIGED TO KEEP MY WORD?" CONSIDERED.

WHY am I obliged to keep my word?

*a.* Because it is right, says one.—Because it is agreeable to the fitness of things, says another.—Because it is conformable to reason and nature, says a third.—Because it is conformable to truth, says a fourth.—Because it promotes the public good, says a fifth.—Because it is required by the will of God, concludes a sixth.

Upon which accounts we may observe,

*b.* 1. That they all ultimately coincide.

The fitness of things, means their fitness to produce happiness: the nature of things, means that actual constitution of the world, by which some things, as such and such actions, for example, produce happiness, and others misery; reason is the principle by which we judge of this constitution; truth is this judgment drawn out into propositions. So that whatever promotes the public happiness, is agreeable to the fitness of things, to nature, to reason, and to truth; and such is the Divine character, that what promotes the general happiness, is required by the

questions present themselves to our attention :—

*e.* I. Will there be after this life any distribution of rewards and punishments at all?

II. If there be, what actions will be rewarded, and what will be punished?

The first question comprises the credibility of the Christian religion, together with the presumptive proofs of a future retribution from the light of nature. The second question comprises the province of morality. As both questions are too much for one work, the affirmative of the first (although it is the foundation upon which the whole fabric rests), must, in this treatise, be taken for granted.

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What answers have been given to the question, "Why am I obliged to keep my word?" *a.* Shew that they all ultimately coincide (*b* 1); and also that they all leave the matter shorter? *b* 2. What is the proper answer to the question? *c.* What is the difference between *obligation* and *inducement*? (*d* 1); and between an act of *prudence* and an act of *duty*? *d* 2. In establishing a system of morality, what two great questions present themselves to our attention? *e.* I, II.

## CHAP. II.

### THE WILL OF GOD.

*a.* As the will of God is our rule; to inquire what is our duty, or what we are obliged to do, in any instance, is, in effect, to inquire what is the will of God in that instance: which consequently becomes the whole business of morality.

*b.* Now there are two methods of coming at the will of God on any point:

I. By his express declarations, when they are to be had, and which must be sought for in Scripture.

II. By what we can discover of his designs and

dispositions from his works; or, as we usually call it, the light of nature.

And here we may observe the absurdity of separating natural and revealed religion from each other. c. The object of both is the same—to discover the will of God, and, provided we do but discover it, it matters nothing by what means.

An ambassador, judging by what he knows of his sovereign's disposition, conduct, or designs, may take his measures in many cases with safety, and presume with great probability how his master would have him act on most occasions that arise; but if he has his instructions in his pocket, it would be strange not to look into them. He will be directed by both rules: when his instructions are clear and positive, there is an end to all deliberation: where his instructions are silent or dubious he will endeavour to supply or explain them, by what he has been able to collect from other quarters of his master's general inclination or intentions.

d. Mr. Hume is pleased to complain of the scheme of uniting ethics with the Christian theology. They who are disposed to join in this complaint, will do well to observe what Mr. Hume has been able to make of morality without this union. And for that purpose, let them read the 2nd part of the 9th section of his fourth Appendix to his *Principles of Morals*; which part contains the practical application of the whole subject. Let them then consider, whether any motives there proposed are likely to withhold men from the gratification of lust, revenge, envy, ambition, avarice; or to prevent the existence of these passions. They will, I think, acknowledge the necessity of additional sanctions. But the necessity of these sanctions is not now the question. If they be *in fact established*, if the rewards and punishments held forth in the gospel will actually come to pass, they *must* be considered. Such as reject the Christian

religion, are to make the best shift they can to build up a system, and lay the foundation of morality, without it. But it appears a great inconsistency in those who receive Christianity, and expect something to come of it, to endeavour to keep all such expectations out of sight in their reasonings concerning human duty.

*e.* The method of coming at the will of God concerning any action, by the light of nature, is to inquire into "the tendency of the action to promote or diminish the general happiness." This rule proceeds upon the presumption, that God Almighty wills and wishes the happiness of his creatures; and, consequently, that those actions, which promote that will and wish, must be agreeable to him; and the contrary.

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What do we in effect do, when we inquire what is our duty in any instance? *a.* What methods are there of coming at the will of God? *b.* I, II. Shew the absurdity of separating natural and revealed religion. *c.* Point out the necessity that exists for uniting ethics with the Christian theology. *d.* What is the method of coming at the will of God, concerning any action, by the light of nature? *e.*

### CHAP. III.

#### THE DIVINE BENEVOLENCE.

*a.* When God created the human species, either he wished their happiness or he wished their misery, or he was indifferent and unconcerned about both. If he had wished our misery, he might have made sure of his purpose, by forming our senses to be so many sores and pains to us, as they are now instruments of gratification and enjoyment. He might have made every thing we tasted, bitter; everything we saw, loathsome; every thing we touched, a sting; every

smell, a stench ; and every sound, a discord. If he had been indifferent about our happiness or misery, we must impute to our good fortune both the capacity of our senses to receive pleasure, and the supply of external objects fitted to produce it. But either of these (and still more both of them), being too much to be attributed to accident, nothing remains but that God, when he created the human species, wished their happiness ; and made for them the provision which he has made, with that view, and for that purpose.

b. The same argument may be proposed in different terms, thus : contrivance proves design ; and the predominant tendency of the contrivance indicates the disposition of the designer. The world abounds with contrivances ; and all the contrivances which we are acquainted with, are directed to beneficial purposes.

c. Evil, no doubt, exists ; but is never, that we can perceive, the object of contrivance. Teeth are contrived to eat, not to ache ; their aching is incidental to the contrivance, perhaps inseparable from it ; but it is not the *object* of it. This is a distinction which well deserves to be attended to. In describing implements of husbandry, you would hardly say of the sickle, that it was made to cut the reaper's fingers, though this mischief often happens. But if you describe instruments of torture. This engine, you would say, is to extend the sinews ; this to dislocate the joints ; this to break the bones ; this to scorch the soles of the feet. Here, pain and misery are the very *objects* of the contrivance. Now, in the works of nature, we never discover a train of contrivance to bring about an evil purpose. No anatomist ever discovered a system of organisation calculated to produce pain and disease. Since then God has called forth his consummate wisdom to contrive and provide for our happiness, and the world appears to have been constituted with this design at first ; so long as this



constitution is upholden by him, we must in reason suppose the same design to continue.

We conclude, therefore, that God wills and wishes the happiness of his creatures. And the rule of *d.* morality built upon this conclusion is, "that the method of coming at the will of God, concerning any action, by the light of nature, is to inquire into the tendency of that action to promote or diminish the general happiness."

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What are Paley's arguments to prove the Divine benevolence? *a. b.* Answer the objection made against the Divine benevolence, by reason of the existence of pain and evil. *c.* It being proved that God wills the happiness of the human species, what is the rule of morality built upon it? *d.*

## CHAP. IV.

### UTILITY.

*a.* Actions are to be estimated by their tendency. Whatever is expedient, is right. It is the utility of any moral rule alone, which constitutes the obligation of it.

But to all this there seems a plain objection, *b. viz.* that many actions are useful, which no man will allow to be right. There are occasions, in which the hand of the assassin would be very useful. The present possessor of some great estate employs his influence and fortune, to corrupt or oppress all about him. His estate would devolve, by his death, to a successor of an opposite character. It is useful, therefore, to despatch such a one as soon as possible out of the way; as the neighbourhood will exchange thereby a pernicious tyrant for a wise and generous benefactor. It might be useful to rob a miser, and give the money to the poor; or to get possession of a

place by false swearing, and thereby serve the public more effectually than in a private station. Must we then admit such actions to be right, which would be to justify assassination, plunder, and perjury; or must we give up our principle, that the criterion of right is utility? It is not necessary to do either.

c. The true answer is, that these actions, after all, are not useful, and for that reason, and that alone, are not right. To see this perfectly, it must be observed that the bad consequences of actions are twofold, *particular* and *general*. The particular bad consequence of an action, is the mischief which that single action directly and immediately occasions. The general bad consequence is, the violation of some necessary or useful *general* rule. Thus, the particular bad consequence of the assassination above described, is the fright and pain which the deceased underwent; the loss he suffered of life, and the affliction, of which his death was the occasion, to his family, friends, and dependants. The general bad consequence is the violation of this necessary general rule, that no man be put to death for his crimes but by public authority. Thus the action is not useful by reason of its general consequence. The same may be said of the other two instances, and of a million more which might be mentioned.

As this solution supposes that the moral government of the world must proceed by general rules, it remains that we shew the necessity of this.

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How are actions to be estimated? a. What objection may be made to Paley's doctrine of *expediency*? b. How does he answer it? c.

## CHAP. V.

## THE NECESSITY OF GENERAL RULES.

*a.* You cannot permit one action and forbid another, without showing a difference between them. Consequently, the same sort of actions must be generally permitted or generally forbidden. When, therefore, the general permission of them would be pernicious, it becomes necessary to lay down and support the rule which generally forbids them. Thus, the assassin knocks the rich villain on the head, because he thinks him better out of the way than in it. If you allow this excuse in the present instance, you must allow it to all who act in the same manner, and from the same motive; that is, you must allow every man to kill any one he meets, whom he thinks noxious or useless; which, in the event, would be to commit every man's life and safety to the spleen, fury, and fanaticism, of his neighbour;—a disposition of affairs which would soon fill the world with misery, and ere long put an end to the human species.

The necessity of general rules in human government is apparent; but whether they are equally necessary in the divine economy, in that distribution of rewards and punishments to which a moralist looks forward, may be doubted.

*b. Ansr.* General rules are necessary to every moral government; *i. e.* to every dispensation, whose object is to influence the conduct of reasonable creatures. For if, of two actions perfectly similar, one be punished, and the other be rewarded or forgiven, which is the consequence of rejecting general rules, the subjects of such a dispensation would no longer know, either what to expect or how to act. Rewards and punishments would cease to be

such,—would become accidents. Like the stroke of a thunderbolt, or the discovery of a mine, like a blank or a benefit-ticket in a lottery, they would occasion pain or pleasure when they happened; but, following in no known order, they could have no previous influence or effect upon the conduct. An attention to general rules, therefore, is included in the very idea of reward and punishment. Consequently, whatever reason there is to expect future reward and punishment at the hand of God, there is the same reason to believe, that he will proceed in the distribution of it by general rules.

Before we prosecute the consideration of general consequences any further, it may be proper to anticipate a reflection; viz. that as the general consequence of an action, upon which so much of the guilt of a bad action depends, consists in the *example*; it should seem, that if the action (suicide for instance) be done with perfect secrecy, so as to furnish no bad example, that part of the guilt drops off. But,

c. 1. Those who reason in this manner do not observe, that they are setting up a general rule, of all others the least to be endured; namely, that secrecy will justify any action. Were such a rule admitted, for instance, in the case of suicide, is there not reason to fear that people would be *disappearing* perpetually?

2. They should be well satisfied about the points proposed in the following queries:—

i. Whether the Scriptures do not teach us to expect that, at the general judgment of the world, the most secret actions will be brought to light?\*

ii. For what purpose can this be, but to make them the objects of reward and punishment?

iii. Whether, being so brought to light, they will not fall under the operation of those equal and impartial rules, by which God will deal with his creatures?

\* Rom. xi. 16. 1 Cor. iv. 5.

a general rule, for the sake of any particular good consequence we may expect. Which is for the most part a salutary caution, the advantage seldom compensating for the violation of the rule. Strictly speaking, that cannot be "evil, from which good comes;" but with a view to the distinction between particular and general consequences, it may.

How may the general consequences and guilt of an action be estimated? *a.* "Whatever is expedient, is right." How does Paley explain this point? *b.* Mention some of the instances adduced by Paley to illustrate the distinction between the *particular* and *general* consequence of an action. *c.* 1—6. What proves incontestably the superior importance of general consequences? *d.* Explain the maxim, "not to do evil, that good may come." *e.*

## CHAP. VII.

### OF RIGHT.

*a.* Right and obligation are reciprocal; that is, wherever there is a right in one person, there is a corresponding obligation upon others. If one man has a "right" to an estate; others are "obliged" to abstain from it—and so in all other instances. Now, because moral *obligation* depends upon the will of God; *right*, which is correlative to it, must depend upon the same. Right therefore signifies, *consistency with the will of God.*

*b.* Right is a quality of persons or of actions. Of persons; as when we say, such a one has a "right" to this estate; parents have a "right" to reverence from their children. Of actions; as it is "right" to punish murder with death; his behaviour on that occasion was "right."

How does Paley arrive at the meaning of the word "right?" *a.* What is right a quality of? Give instances. *b.*

## CHAP. VIII.

## THE DIVISION OF RIGHTS.

Rights, when applied to persons, are

I. Natural or adventitious.

*a. Natural rights* are such as would belong to a man, although there subsisted in the world no civil government whatever; as, a man's right to his life, limbs, and liberty; his right to the produce of his personal labour; to the use of air, light, water. *Adventitious rights* are such as arise from the establishment of civil society; as the right of a king over his subjects; of a general over his soldiers; of a judge over the life and liberty of a prisoner; a right to appoint magistrates, to impose taxes, decide disputes, direct the descent or disposition of property; a right, in a word, in any one man, or particular body of men, to make laws and regulations for the rest.

And here it will be asked, how adventitious rights are created; or, which is the same thing, how any new rights can accrue from the establishment of civil society; as rights of all kinds depend upon the will of God, and civil society is but the institution of man?

*b.* This difficulty may be solved thus:—God wills the happiness of mankind; and the existence of civil society, as conducive to that happiness. Consequently, many things which are useful for the support of civil society in general, or for the conduct and conservation of particular societies already established, are, for that reason, “consistent with the will of God,” or “right,” which, without that reason, *i.e.* without the establishment of civil society, would not have been so.

Hence it appears, that adventitious rights, though immediately derived from human appointment, are not less sacred than natural rights, nor the obligation *c.* to respect them less cogent. They both ultimately rely upon the same authority, the will of God. A man claims a right to a particular estate. He can shew nothing for his right, but a rule of civil society. Notwithstanding all this, there would be the same sin in dispossessing him by craft or violence, as if the estate had been assigned to him by the immediate appointment of Heaven.

II. Alienable or inalienable.

*d. Alienable rights* are such as may be transferred from one person to another, as houses, lands, money, &c. *Inalienable rights* are such as may not be transferred; as the right of a prince over his people, of a husband over his wife, of a master over his servants, &c.

*e.* The distinction depends upon the mode of acquiring the right. If the right originate from a contract, and be limited to the *person* by the express terms of the contract, or by the common interpretation of such contracts, or by a *personal condition* annexed to the right; then it is inalienable. In all other cases it is alienable.

*f.* The right to civil liberty is alienable; though it has often been pronounced to be an inalienable right. The true reason why mankind hold in detestation the memory of those who have sold their liberty to a tyrant, is, that, together with their own, they sold commonly, or endangered, the liberty of others; which certainly they had no right to dispose of.

III. Perfect or imperfect.

*g. Perfect rights* may be asserted by force, or, where civil society exists, by course of law. As, a man's right to his life, person, house, estate, furniture, &c. *Imperfect rights* are such as may not be asserted either by force or by course of law; as the

right of the best qualified candidate to success; the right of a poor neighbour to relief, the right of a benefactor to returns of gratitude from the person he has obliged, the right of children to affection and education from their parents, and of parents, on their part, to duty and reverence from their children.

It may be, at first view, difficult to apprehend how a person should have a right to a thing, and yet have no right to use the means necessary to obtain it. In other words: How it comes to pass that it should be consistent with the will of God that a person should possess a thing, and yet not be consistent with the same will that he should use force to obtain it.

*h.* This difficulty, like most others in morality, is resolvable into the necessity of general rules. The answer is, that by reason of the indeterminateness, either of the object, or of the circumstances of the right, the permission of force in this case would, in its consequence, lead to the permission of force in other cases, where there existed no right at all. The best candidate has, no doubt, a right to success: but his right depends upon his qualifications; there must be somebody therefore to compare them. The existence, degree, and respective importance, of these qualifications, are all indeterminate; there must be somebody therefore to determine them. To allow the candidate to demand success by force, is to make him the judge of his own qualifications. You cannot do this but you must make all other candidates the same; which would open a door to demands without number, reason, or right. The same may be said of all other cases of imperfect rights: not to mention, that in the instances of gratitude, affection, reverence, and the like, force is excluded by the very idea of the duty, which must be voluntary, or cannot exist at all.

*h.* Wherever the right is imperfect the corresponding obligation is so too. And many imagine, in consequence of the ill-chosen term "imperfect," that



there is less guilt in the violation of an imperfect obligation, than of a perfect one; which is a groundless notion. For an obligation being perfect or imperfect, determines only whether violence may or may not be employed to enforce it; and determines nothing else. The degree of guilt incurred by violating the obligation, is a different thing, and is determined by circumstances altogether independent of this distinction.

*m.* As positive precepts are often indeterminate in their extent, and as the indeterminateness of an obligation is that which makes it imperfect; it comes to pass, that positive precepts commonly produce an imperfect obligation. Thus the fifth commandment is positive, and the duty which results from it imperfect. But negative precepts or prohibitions, being generally precise, constitute accordingly perfect obligations. Thus the sixth commandment is negative, and imposes a perfect obligation.

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Define and give instances of natural and adventitious rights. *a.* How are adventitious rights created? *b.* *Adventitious* rights are not less sacred than *natural* rights. *c.* Define, and give instances of, alienable and inalienable rights. *d.* Upon what does the distinction between alienable and inalienable rights depend? *e.* Is the right to civil liberty alienable? *f.* Define, and give instances of, perfect and imperfect rights. *g.* How can a person be said to have a right to a thing, and yet have no right to use the means necessary to obtain it? *h.* Wherever the right is imperfect, what else is so? *i.* Is there less guilt in the violation of an imperfect than of a perfect obligation? *l.* Shew that positive precepts create imperfect: and negative, perfect obligations: and give instances. *m.*

## CHAP. IX.

## THE GENERAL RIGHTS OF MANKIND.

*a.* By the general rights of mankind, are meant the rights which belong to the species collectively; the original stock, which they have since distributed among themselves.

These are,

*b.* 1. A right to the fruits or vegetable produce of the earth.

The insensible parts of the creation are incapable of injury; and it is nugatory to inquire into the right, where the use can be attended with no injury. But we may observe, that, as God had created us with a want and desire of food, and provided things suited to sustain and satisfy us, we may fairly presume that he intended we should apply these things to that purpose.

2. A right to the flesh of animals.

This is a very different claim from the former. Some excuse seems necessary for the pain and loss which we occasion to brutes, by restraining them of their liberty, and, at last, putting an end to their lives, for our pleasure and conveniency.

The reasons alleged in vindication of this practice are the following:—

i. That the several species of brutes being created to prey upon one another, affords a kind of analogy to prove that the human species were intended to feed upon them.

ii. That, if let alone, they would overrun the earth, and exclude mankind from the occupation of it.

iii. That they are requited for what they suffer at our hands, by our care and protection.

Upon which reasons we may observe, that the *analogy* contended for is extremely lame ; since brutes have no power to support life by any other means, and since we have ; for the whole human species might subsist entirely on vegetable food. The two other reasons may be valid, as far as they go ; for, if man had been supported entirely by vegetable food, a great part of those animals which die to furnish his table, would never have lived : but they by no means justify our right over the lives of brutes to the extent in which we exercise it. What danger is there, for instance, of fish interfering with us, in the occupation of their element ? or what do *we* contribute to their support or preservation ?

It seems that it would be difficult to defend this right by any arguments which the light of nature affords ; and that we are beholden for it to the permission recorded in Gen. ix. 1—3. To Adam and his posterity had been granted, at the creation, “every green herb for meat,” and nothing more. In the last clause of the above passage, the old grant is recited, and extended to the flesh of animals ; “even as the green herb, have I given you all things.” But this was not till after the flood ; the inhabitants of the antediluvian world had therefore no such permission, that we know of. Whether they actually refrained from the flesh of animals, is another question. Abel, we read, was a keeper of sheep ; and for what purpose he kept them, except for food, is difficult to say (unless it were sacrifices.)

From reason, then, or revelation, or from both together, it appears to be the intention of the Almighty, that the productions of the earth should be applied to the sustentation of human life.

3. The right of extreme necessity ; *i. e.* a right to use or destroy another's property, when it is necessary for our own preservation to do so ; as a right to take the first food, clothes, or shelter, we meet with,

when we are in danger of perishing through want of them ; a right to throw goods overboard to save the ship ; or to pull down a house, in order to stop the progress of a fire.

Of which right the foundation seems to be this ; that when property was first instituted, the institution was not intended to operate to the destruction of any ; therefore when such consequences would follow, all regard to it is superseded. Or rather, perhaps, these are the few cases, where the particular consequence exceeds the general consequence ; where the remote mischief resulting from the violation of the general rule, is overbalanced by the immediate advantage.

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What is meant by "the general rights of mankind?" *a.* Give instances of the general rights of mankind ; and state the arguments by which the right in each case is defended. *b.* 1-3.



## BOOK III.

### RELATIVE DUTIES.

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#### PART I.

OF RELATIVE DUTIES WHICH ARE DETERMINATE.

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#### CHAP. I.

OF PROPERTY.

*a.* If you should see a flock of pigeons in a field of corn; and if you should see ninety-nine of them gathering all they got, into a heap; reserving nothing for themselves, but the refuse; keeping this heap for the weakest, perhaps the worst, of the flock; sitting round, and looking on, all the winter, whilst this one was devouring and wasting it; and if a pigeon more hardy or hungry than the rest, touched a grain, all the others instantly flying upon it, and tearing it to pieces; you would see what is every day practised among men. Among men you see the ninety-and-nine scraping together a heap of superfluities for one (oftentimes the feeblest and worst of the whole set), getting nothing for themselves but a little of the coarsest of the provision; looking quietly on while they see the fruits of all their labour spent or spoiled; and if one of the number touch a particle of the hoard, the others joining against him, and hanging him for the theft.

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What is the paradoxical view of the institution of Property given by Paley? *a.*

## CHAP. II.

## THE USE OF THE INSTITUTION OF PROPERTY.

The principal advantages, arising from the institution of property, are the following :

a. I. It increases the produce of the earth.

The earth, in climates like ours, produces little without cultivation : and none would be willing to cultivate the ground, if others were to be admitted to an equal share of the produce. The same is true of the care of flocks and herds of tame animals. There would be little to subsist on in this country, if we trusted to the spontaneous productions of the soil ; and it fares not much better with other countries.

II. It preserves the produce of the earth to maturity.

We may judge what would be the effects of a community of right to the productions of the earth, from a few trifling specimens. A cherry-tree in a hedge-row, nuts in a wood, the grass of an unstinted pasture, are seldom of much advantage to any body, because people do not wait for the proper season of reaping them. Corn, if any were sown, would never ripen ; lambs and calves would never grow up, because the first person that met them would reflect, that he had better take them as they are, than leave them for another.

III. It prevents contests.

War and waste, tumult and confusion, must be unavoidable and eternal, where there is not enough for all, and where there are no rules to adjust the division.

IV. It improves the conveniency of living.

This it does in two ways :—

1. It enables mankind to divide themselves into distinct professions; which is impossible, unless a man can exchange the productions of his art for what he wants from others; and exchange implies property. Much of the advantage of civilised over savage life depends upon this. When a man is from necessity his own tailor, carpenter, cook, &c., it is not probable that he will be expert at any of his callings.

2. It encourages those arts by which the accommodations of human life are supplied, by appropriating to the artist the benefit of his discoveries and improvements: without which, ingenuity will never be exerted with effect.

*b.* Upon these accounts we may venture, with a few exceptions, to pronounce, that the poorest and worst provided, where property and the consequences of property prevail, are in a better situation, with respect to food, raiment, houses, and the necessaries of life, than *any* are in places where most things remain in common. The balance therefore upon the whole, must preponderate in favour of property with a manifest and great excess.

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What are the principal advantages arising from the institution of property? *a.* I—IV What is the conclusion which follows from Paley's account of the institution of property? *b.*

### CHAP. III.

#### THE HISTORY OF PROPERTY.

*a.* The first objects of property were the fruits which a man gathered, and the wild animals he caught; next to these, the tents or houses which he built, the tools he made use of to catch or prepare



his food ; and afterwards, weapons of war and offence. Flocks and herds of tame animals soon became property ; Abel was a keeper of sheep : sheep and oxen, camels and asses, composed the wealth of the Jewish patriarchs. As the world was first peopled in the East, where there existed a great scarcity of water, wells, probably, were next made property ; as we learn from the frequent and serious mention of them in the Old Testament.\* Land, which alone our laws call real property, was probably not made property in any country till long after the institution of many other species, that is, till the country became populous, and tillage began to be thought of. The first partition of an estate which we read of, was that which took place between Abram and Lot. There are no traces of property in land in Cæsar's account of Britain ; little of it in the history of the Jewish patriarchs ; none of it found amongst the nations of North America ; the Scythians are expressly said to have appropriated their cattle and houses, and to have left their land in common.

*b.* Property in immoveables continued at first no longer than the occupation ; that is, so long as a man's family continued in possession of a cave, or his flocks depastured upon a hill, no one attempted, or thought he had a right, to disturb or drive them out. All more permanent property in land was probably posterior to civil government and to laws.

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Give a history of the order in which property was established. *a.* How long did property in immoveables continue at first ? *b.*

\* Gen. xxi. 25 ; xxvi. 18.

## CHAP. IV.

IN WHAT THE RIGHT OF PROPERTY IN LAND IS  
FOUNDED.

*a.* Land was once no doubt, common; and the question is, how any part of it could justly be taken out of the common, and so appropriated to the first owner, as to give him a better right to it than others; and, what is more, a right to exclude all others from it.

Moralists have given different accounts of this matter, as:—

*b.* I. That mankind, when they suffered a person to occupy a piece of ground, by tacit consent relinquished their right to it; and as the ground, they say, belonged to mankind collectively, and mankind thus gave up their right to the first peaceable occupier, it thenceforward became his property, and no one afterwards had a right to molest him in it.

The objection to this is, that consent can never be presumed from silence, where the person whose consent is required knows nothing about the matter; which must have been the case with all mankind, except the neighbourhood of the place where the appropriation was made. And to suppose that the ground previously belonged to the neighbourhood, and that they had a just power of conferring a right upon whom they pleased, is to suppose the question resolved, and a partition of land to have already taken place.

II. That each man's limbs and labour are his own exclusively; that, by occupying a piece of ground, a man inseparably mixes his labour with it; by which means it becomes thenceforward his own, as you can-

not take it from him without depriving him of something which is indisputably *his*.

This is Mr. Locke's solution, and seems a fair reason, where the value of the labour bears a considerable proportion to the value of the thing. Thus game and fish, though they be common whilst at large in the woods or water, instantly become the property of the person that catches them; because an animal, when caught, is much more valuable than when at liberty; and this increase of value is strictly the property of the fowler or fisherman, being the produce of his personal labour. For the same reason, wood or iron, manufactured into utensils, becomes the property of the manufacturer; because the value of the workmanship far exceeds that of the materials. And upon this principle, a parcel of unappropriated ground, which a man should pare, burn, plough, harrow, and sow, for the production of corn, would justly enough be thereby made his own.

III. That, as God has provided these things for the use of all, he has given each leave to take what he wants; by virtue therefore of this leave, a man may appropriate what he stands in need of, without waiting for the consent of others; as, when an entertainment is provided for the freeholders of a county, each goes, and eats and drinks what he wants, without waiting for the consent of the other guests.

This is a better account of the first right of ownership. But then this reason justifies property, as far as necessities alone, or, at the most, as far as a competent provision for our natural exigencies. For, in the entertainment we speak of, although every freeholder may eat till he be satisfied; yet you would hardly permit any one to fill his pockets, or to carry away a quantity of provision to be hoarded up, or wasted; especially if, by so doing, he pinched the guests at the lower end of the table.

c. The real foundation of our right is, *the law of the land.*

It is the intention of God, that the produce of the earth be applied to the use of man; this cannot be fulfilled without establishing property; it is consistent, therefore, with his will, that property be established. The land cannot be divided into separate property, without leaving it to the law of the country to regulate that division; it is consistent, therefore, with the same will, that the law should regulate the division; and, consequently, "consistent with the will of God," or, "right," that we should possess that share which these regulations assign us.

The principles here laid down upon this subject, apparently tend to a conclusion of which a bad use is apt to be made. As the right of property depends upon the law of the land, it seems to follow, that a man has a right to keep and take every thing which the law will allow him. This is not the case.

d. The distinction is this. With the law, we acknowledge, resides the disposal of property; so long, therefore, as we keep within the design and intention of a law, that law will justify us, whatever be the equity or expediency of the law itself. But when we convert to one purpose, a rule of law, which is intended for another, we plead in our justification, not the intention of the law, but the words, that is, we plead a dead letter which can signify nothing; for words *without* meaning or intention, have no effect in justice; much less, words taken *contrary* to the meaning and intention of the speaker or writer.

N.B. *As property is the principal subject of justice, or of "the determinate relative duties," it has been discussed in the first place. We now proceed to state these duties in the best order we can.*

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What difficulty is there in explaining the origin of property in land? a. What accounts have been given of the

right of property in land? and what objections have been started? *b.* I—III. What is the real foundation of this right? and how is it proved? *c.* Does it follow that, because the right of property depends upon the law of the land, a man has a right to take and keep every thing which the law will allow him? *d.*

## CHAP. V.

### PROMISES.

Under this head we may consider,

1. *From whence the obligation to perform promises arises.*

*a.* Those who argue from innate moral principles, suppose a sense of the obligation of promises to be one of them; but without assuming this without proof, the obligation to perform promises may be deduced from its necessity to the well-being or the existence, indeed, of human society. This may be shewn as follows:—Men act from expectation. Expectation is in most cases determined by the assurances which we receive from others. If no dependence could be placed upon these assurances, it would be impossible to judge of many future events, or to regulate our conduct with respect to them. Confidence therefore in promises, is essential to the intercourse of human life; because, without it, the greatest part of our conduct would proceed upon chance. But there could be no confidence in promises, if men were not obliged to perform them; the obligation therefore to perform promises, is essential to the same ends, and in the same degree.

II. *In what sense promises are to be interpreted.*

*b.* Where the terms of a promise admit of more senses than one, the promise is to be performed "in that sense in which the promiser apprehended, at the time, that the promisee received it." It is not the

sense in which the promiser actually intended it that always governs the interpretation of an equivocal promise: because, at that rate, you might excite expectations, which you never meant, nor would be obliged, to satisfy. Much less is it the sense in which the promisee actually received it; for then you might be drawn into engagements which you never designed to undertake. It must therefore be the sense in which the promiser believed that the promisee accepted his promise. The rule is put in the above form, to exclude evasion in cases in which the promiser attempts to make his escape through some ambiguity in the expressions which he used. Thus Temures promised c. the garrison of Sebastia, that, if they would surrender, *no blood should be shed*. The garrison surrendered; and he buried them all alive. Now, Temures fulfilled the promise in the sense in which he intended it at the time; but not in the sense in which the garrison received it, nor in which Temures knew that the garrison received it; in which last sense he was in conscience bound to have performed it.

d. The obligation then of promises depends upon the *expectations* which we knowingly and voluntarily excite. Consequently, any conduct towards another, which we are sensible excites expectations in that other, is as much a promise, and creates as strict an obligation, as the most express assurances. This is the foundation of *tacit promises*.

### III. *In what cases promises are not binding.*

Promises are not binding,

1. Where the performance is *impossible*.

e. But the promiser is guilty of a fraud, if he be aware of the impossibility, at the time of making the promise. For, when any one promises a thing, he asserts his belief, at least, of the possibility of performing it, as no one can accept or understand a promise under any other supposition. Instances of this sort are the following: The minister promises a

place, which he knows to be engaged ;—A merchant promises a ship, which he is privately advised is lost at sea ;—an incumbent promises to resign a living, being previously assured that his resignation will not be accepted by the bishop.

When the promiser himself occasions the impossibility, it is a direct breach of the promise ; as when a soldier maims, or a servant disables himself, to get rid of his engagements.

2. Where the performance is *unlawful*.

Of this there are two cases :

i. Where the unlawfulness is known to the parties, at the time of making the promise ; as where an assassin promises his employer to despatch his rival, or a servant to betray his master. The parties in these cases are not obliged to perform the promise, *because they were under a prior obligation to the contrary*. From which prior obligation what is there to discharge them ? Their promise,—their own act and deed.—But an obligation, from which a man can discharge himself by his own act, is no obligation at all. The guilt therefore of such promises lies in the making, not in the breaking of them.

ii. Where the unlawfulness did not exist, or was not known, at the time of making the promise ; as where a woman gives a promise of marriage, and before the marriage, she discovers that her intended husband is too nearly related to her, or that he has a wife yet living. Here it must be presumed that the parties supposed what they promised to be lawful, and that the promise proceeded entirely upon this supposition. The lawfulness therefore becomes a condition of the promise ; which condition failing, the obligation ceases. Of this nature was Herod's promise to his daughter-in-law. The promise was not unlawful in the terms in which Herod delivered it ; and when it became so by the daughter's choice, by her demanding "John the Baptist's head," Herod

was discharged from the obligation of it.

g. The specific performance of promises is reckoned a perfect obligation. And many casuists have laid down, that, where a perfect and an imperfect obligation clash, the perfect obligation is to be preferred. For which opinion, however, there seems to be no reason, but what arises from the terms "perfect" and "imperfect." The truth is, of two contradictory obligations, that ought to prevail which is prior in point of time.

But observe, the validity of a promise is not destroyed,

h. i. Because the subject of it is unlawful.

For it is the *performance* being unlawful, and not any unlawfulness in the subject or motive of the promise, which destroys its validity: therefore the reward of any crime, after the crime is committed, ought, if promised, to be paid. For the sin and mischief, by this supposition, are over; and will be neither more nor less for the performance of the promise.

ii. Because it proceeded from an *unlawful motive*.

A certain person, in the life-time of his wife, who was then sick, had paid his addresses, and promised marriage to another woman:—the wife died; and the woman demanded performance of the promise. The man, who either felt or pretended doubts concerning the obligation of such a promise, referred his case to Bishop Sanderson, the most eminent, in this kind of knowledge, of his time, who adjudged the promise to be void. Now, upon our principles, he was wrong; for, however criminal the affection might be, which induced the promise, the performance, when it was demanded, was lawful; which is the only lawfulness required.

iii. Where it produces, when performed, no effect, beyond what would have taken place had the promise never been made.



This is the only case, in which the obligation of a promise will justify a conduct, which, unless it had been promised, would be unjust. A captive may lawfully recover his liberty, by a promise of neutrality; for his conqueror takes nothing by the promise, which he might not have secured by his death or confinement; and neutrality would be innocent in him, although criminal in another.

3. Where they *contradict a former promise*.

Because the performance is then unlawful.

4. *Before acceptance*; i. e. before notice given to the promisee. For no expectation has been excited, therefore none can be disappointed.

And if I declare my intention to a third person, who, without any authority, conveys my declaration to the promisee; the promise is not binding: for I have not *voluntarily* excited expectation.

5. When they are *released by the promisee*.

This is evident: but it may be sometimes doubted who the promisee is. If I give a promise to A, for B; then A is the promisee, whose consent I must obtain, to be released from the engagement.

If I promise a place or vote to B *by* A, that is, if A be a messenger to convey the promise, then B is the promisee.

Promises to one person, for the benefit of another, are not released by the death of the promisee. For, his death neither makes the performance impracticable, nor implies any consent to release the promiser from it.

6. When they are *erroneous*.

Of this there are two cases:

i. Where the error proceeds from the mistake or misrepresentation of the promisee. For a promise supposes the truth of the account, which the promisee relates in order to obtain it. A beggar solicits your charity, by a story of the most pitiable distress; you promise to relieve him, if he will call again:—in the

interval you discover his story to be made up of lies ; this, no doubt, releases you from your promise.

ii. When the promise is understood by the promisee to proceed upon a certain supposition, or when the promiser apprehended it to be so understood, and that supposition turns out to be false.

A father receives an account of the death of his only son.—He promises his fortune to his nephew.—The account turns out to be false. The father is released from his promise ; not merely because he never would have made it, had he known the truth of the case, for that alone will not do ; but because the nephew also himself understood the promise to proceed upon the supposition of his cousin's death : or, at least, his uncle thought he so understood it. The foundation of the rule is plainly this : a man is bound only to satisfy the expectation which he intended to excite ; whatever condition therefore he intended to subject that expectation to, becomes an essential condition of the promise.

It has long been controverted among moralists, whether promises be binding, which are extorted by violence or fear.

k. Now the obligation of all promises results from the necessity of that confidence which mankind repose in them. The question, therefore, whether these promises are binding, will depend upon this ; whether mankind, upon the whole, are benefited by the confidence placed on such promises ? A highwayman attacks you—and being disappointed in his booty, threatens to murder you ;—you promise, with many solemn asseverations, that if he will spare your life, he shall find a purse of money at a place appointed ;—upon the faith of this promise, he forbears from further violence. Now, your life was saved by the confidence reposed in a promise extorted by fear ; and the lives of many others may be saved by the same. This is a good consequence. On the

other hand, confidence in promises like these, greatly facilitates the perpetration of robberies: they may be made the instruments of almost unlimited extortion. This is a bad consequence: and in the question between the importance of these opposite consequences, resides the doubt concerning the obligation of such promises.

*l. Vows* are promises to God. The obligation cannot be made out upon the same principle as that of other promises. The violation of them, nevertheless, implies a want of reverence to the Supreme Being; which is enough to make it sinful.

*m.* There appears no command in the Christian Scriptures to make vows; much less any authority to break through them when they are made.

The few instances\* which we read of in the New Testament, were religiously observed.

*n.* The rules laid down concerning promises, are applicable to vows. Thus Jephtha's vow, taken in the sense in which that transaction is commonly understood, was not binding; because the performance, in that contingency, became unlawful.

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Whence does the obligation to perform promises arise?  
*a.* In what sense are promises to be interpreted? *b.* By what equivocation did Temures violate our rule? *c.* What is the foundation of *facit promises*? *d.* In what cases are promises not binding? *e.* 1—6. Was Herod's promise to his daughter-in-law binding? *f.* What species of obligation is the specific performance of promises reckoned? Of two contradictory obligations, which ought to prevail? *g.* Mention some instances in which the validity of a promise (though apparently the case) is not destroyed. *h.* i—iii. Are promises binding which have been extorted by violence or fear? *k.* What are *vows*? How may the obligation to perform them be made out? *l.* What do we find in the Scriptures on the subject of vows? *m.* When are vows binding? Was Jephtha's so? *n.*

\* Acts xviii. 18; xxi. 23.

## CHAP. IV.

## CONTRACTS.

*a.* A Contract is a mutual promise. The obligation therefore of contracts, the sense in which they are to be interpreted, and the cases where they are not binding, will be the same as of promises; so that the rule which governs the construction of all contracts, as in the case of promises, is, that

*b.* *Whatever is expected by one side, and known to be so expected by the other, it is to be deemed a part or condition of the contract.*

*c.* The several kinds of contracts, and the order in which we shall consider them, stand thus :—

Contracts of	{	Sale.	
		Hazard.	
	{	Lending of	{ Inconsumable property.
			{ Money.
			{ Service.
			{ Commissions.
			{ Partnership.
			{ Offices.

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What is a contract? *a.* What rule governs the construction of all contracts? *b.* Enumerate the several kinds of contracts. *c.*

## CHAP. VII.

## CONTRACTS OF SALE.

*a.* The rule of justice in bargains, is, that the seller is bound to disclose the faults of what he offers to sale. One method of proving this is the following :

It will be allowed, that to advance a direct falsehood, in recommendation of our wares, by ascribing

to them some quality which we know that they have not, is dishonest. Now compare with this the designed concealment of some fault which we know that they have. The motives and the effects of actions are the only points of comparison, in which their moral quality can differ: but the motive in these two cases is the same, viz. to procure a higher price: the effect, that is, the prejudice to the buyer, is also the same; for he finds himself equally out of pocket, whether the commodity turn out worse than he had supposed, by the want of some quality which he expected, or the discovery of some fault which he did not expect. If, therefore, actions be the same, as to all moral purposes, which proceed from the same motives, and produce the same effects; it is making a distinction without a difference, to esteem it a *cheat* to magnify beyond the truth the virtues of what we have to sell, but none to conceal its faults.

b. There is one exception to this rule; namely, where the silence of the seller implies some fault in the thing to be sold, and where the buyer has a compensation in the price for the risk which he runs.

To this of concealing the faults of what we want to put off, may be referred the practice of passing bad money.

c. This practice is sometimes defended by a vulgar excuse, that we have taken the money for good, and must get rid of it. Which is much the same as if one, who had been robbed on the highway, should allege that he had a right to reimburse himself out of the pocket of the first traveller he met.

If the thing sold be damaged, between the sale and the delivery, ought the buyer to bear the loss, or the seller?

d. This will depend upon the particular construction of the contract. If the seller, either expressly, or by implication, or by custom, engage to *deliver*

the goods ; and they be damaged in the conveyance, the seller must abide by the loss. If the thing sold remain with the seller, at the instance, or for the conveniency of the buyer, then the buyer undertakes the risk.

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What is the rule of justice in bargains, and how is it proved ? *a.* Is there any exception to the rule ? *b.* How is the practice of passing bad money sometimes defended, and how does Paley answer it ? *c.* If the thing sold be damaged between the sale and the delivery, who ought to bear the loss ? *d.*

## CHAP. VIII.

### CONTRACTS OF HAZARD.

*a.* By Contracts of Hazard are meant gaming and insurance.

*b.* What some say of this kind of contracts, "that one side ought not to have any advantage over the other," is neither practicable nor true. It is not practicable ; for that equality of skill and judgment, which this rule requires, is seldom to be met with. Nor is this equality requisite to the justice of the contract. One party may give to the other the whole of the stake, and the other may justly accept it ; much more, therefore, may one give to the other a part ; or, what is the same, an advantage in the chance of winning the whole.

*c.* The proper restriction is, that neither side have an advantage by *means* of which the other is not aware ; for this is an advantage taken, without being *given*. If I sit down to a game at whist, and have an advantage by means of a better memory, closer attention, or a superior knowledge of the game, the advantage is fair ; because it is obtained by means of which the adversary is aware. But if I gain an

advantage by packing the cards, glancing my eye into the adversary's hand, or by concerted signals with my partner, it is a dishonest advantage; because it depends upon means which the adversary never suspects that I make use of. The same distinction holds of all contracts into which chance enters.

What is meant by Contracts of Hazard? *a.* What restriction is generally laid down respecting this kind of contracts? Shew that it is neither practicable nor true? *b.* What is the proper restriction? *c.*

## CHAP. IX.

### CONTRACTS OF LENDING OF INCONSUMABLE PROPERTY.

*a.* When the identical loan is to be returned, as a book, a horse, a harpsichord, it is called *inconsumable*; in opposition to corn, wine, money, &c., which can only be restored in kind.

The questions under this head are as follows:—

1. If the thing lent be lost or damaged, who ought to bear the loss or damage?

*b.* If it be damaged by the use, or by accident in the use, for which it was lent, the lender ought to bear it; but if the damage be occasioned by the fault of the borrower, or by accident in some use for which it was not lent, then the borrower must make it good. For in one case, the owner foresees the damage or risk, and therefore consents to undertake it; in the other case he does not.

2. If an estate or a house, during a lease, become worth much more, or much less, than the rent agreed to be paid for it; to whom, of natural right, does the advantage or disadvantage belong?

*c.* The rule of justice seems to be this: If the alteration might be *expected* by the parties, the hirer must take the consequence; if it could not, the

owner. If an estate in the isle of Ely be overflowed with water, so as to be incapable of occupation, the tenant is bound by his lease; because he entered into it with a knowledge of the danger. But if, by the irruption of the sea into a country where it was never known to have come before, by the breaking out of a volcano, the incursions of an enemy, or by a mortal contagion amongst the cattle, an estate lose its value, the loss shall fall upon the owner; that is, the tenant shall either be discharged from his agreement, or be entitled to an abatement of rent. For changes such as these, being unprovided for by the contracting parties, form no part of the contract; and therefore ought to have the same effect as if no contract at all had been made, that is, ought to fall upon the owner.

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Distinguish between *consumable* and *inconsumable* property. *a.* If the thing lent be lost or damaged, who ought to bear the loss? *b.* If property let on lease become either much more, or much less valuable, to whom does the advantage or disadvantage belong? *c.*

## CHAP. X.

### CONTRACTS CONCERNING THE LENDING OF MONEY.

*a.* There exists no reason in the law of nature, why a man should not be paid for the lending of his money, as well as of any other property.

*b.* The scruples that have been entertained upon this head, and upon the foundation of which, the receiving of interest or usury (for they formerly meant the same thing) was once prohibited in almost all Christian countries, arose from a passage in Deuteronomy xxiii. 19, 20: "Thou shalt not lend upon usury to thy brother; usury of money, usury of vic-



tuals, usury of any thing that is lent upon usury : unto a stranger thou mayest lend upon usury ; but unto thy brother thou shalt not lend upon usury."

c. This prohibition is now generally understood to have been intended for the Jews alone, with a view to preserve amongst them that distribution of property, to which many of their institutions were subservient. This interpretation is confirmed, beyond all controversy, by the distinction made in the law, between a Jew and a foreigner:—"Unto a stranger thou mayest lend upon usury, but unto thy brother thou mayest not lend upon usury;" a distinction which could hardly have been admitted into a law, which the Divine Author intended to be of moral and of universal obligation."

d. The rate of interest has in most countries been regulated by law. The policy of this is, to check the power of accumulating wealth without industry ; and to give encouragement to trade, by enabling adventurers in it to borrow money at a moderate price.

e. Compound interest, though forbidden by the law of England, is agreeable enough to natural equity ; for interest detained after it is due, becomes, to all intents and purposes, part of the sum lent.

f. Whoever borrows money is bound in conscience to repay it. This every man can see : but every man cannot see, or does not reflect, that he is also bound to use the means necessary to enable himself to repay it. "If he pays the money when he has it, or has it to spare, he does all that an honest man can do," and all, he imagines, that is required of him ; whilst the previous measures, which are necessary to furnish him with that money, he makes no part of his care, nor observes to be as much his duty as the other.

Few subjects have been more misunderstood, than the law which authorizes the imprisonment of insolvent debtors. It has often been represented as a

gratuitous cruelty, which contributed nothing to the reparation of the creditor's loss, or to the advantage *g.* of the community. This prejudice arises from considering the sending of a debtor to gaol as an act of private satisfaction to the creditor, instead of a public punishment. As an act of satisfaction or revenge it is always wrong. Consider it as a public punishment; founded upon the same reason, and subject to the same rules, as other punishments; and the justice of it will be apparent. There are frauds relating to insolvency, against which it is as necessary to provide punishment, as for any public crimes whatever.

Is usury at variance with the law of nature? *a.* Whence arose the ancient scruples on this head? *b.* How is the passage now interpreted? *c.* How has the rate of interest generally been regulated? What is the policy of this regulation? *d.* Is compound interest agreeable to natural equity? *e.* Whoever borrows money is bound to repay it. What else is he bound to do? *f.* Imprisonment for debt has often been represented as a gratuitous cruelty. Whence arises this prejudice? *g.*

## CHAP. XI.

### CONTRACTS OF LABOUR.

#### *Service.*

*a.* Service in this country is voluntary, and by contract: and the master's authority extends no further than the equitable construction of the contract will justify.

*b.* A servant is not bound to obey the unlawful commands of his master: for the servant is bound by nothing but his own promise, and the obligation of a promise extends not to things unlawful. For the same reason, the master's authority is no *justification* of the servant in doing wrong; for the servant's own

promise, upon which that authority is founded, would be none.

c. The master is responsible for what a servant does in the ordinary course of his employment; for it is done under a general authority committed to him, which is in justice equivalent to a specific direction.

d. A master of a family is culpable, if he permit any vices among his domestics, which he might restrain by due discipline, and a proper interference. This results from the general obligation to prevent misery when in our power; and the assurance which we have, that vice and misery at the long run go together.

e. What the Scriptures have delivered concerning the relation and reciprocal duties of masters and servants, breathes a spirit of liberality, little known when servitude was slavery; and which flowed from a habit of contemplating mankind under the common relation in which they stand to their Creator, and with respect to their interest in another existence: "Servants, be obedient to them that are your masters, according to the flesh, with fear and trembling; not with eye-service, as men-pleasers, but as the servants of Christ; *with good will, doing service as to the Lord, and not to men*: knowing that whatsoever good thing any man doeth, the same shall he receive of the *Lord*, whether he be bond or free. And ye masters, do the same thing unto them, forbearing threatening: *knowing that your Master also is in heaven*; neither is there respect of persons with him."

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What is the nature of service in this country? a. Is a servant bound to obey the unlawful commands of his master? b. When is a master responsible for what his servant does, and why? c. Why is a master culpable for permitting vices among his domestics? d. What have the Scriptures delivered respecting the reciprocal duties of masters and servants? e.

## CHAP. XII.

## CONTRACTS OF LABOUR.

*Commissions.*

a. Whoever undertakes another man's business, promises to employ the same care and diligence that he would if it were his own; for he knows that it was committed to him with that expectation. And he promises nothing more. Therefore an agent is not obliged to ride about the country, toil, or study, whilst there remains a possibility of benefiting his employer. If he exert so much activity, and use such caution, as he would have thought sufficient if the same interest of his own had been at stake, he has discharged his duty, although it should afterwards turn out, that by more activity, he might have concluded the business with greater advantage. This rule defines the duty of factors, stewards, attorneys, and advocates.

b. One of the chief difficulties of an agent's situation is, to know how far he may depart from his instructions, upon some change in the circumstances of his commission. The latitude allowed to agents in this respect, will be different according as the commission was confidential or ministerial; and according as the general rule and nature of the service require a prompt and precise obedience to orders, or not.

c. What is trusted to an agent, may be lost or damaged in his hands by *misfortune*. An agent who acts without pay, is clearly not answerable for the loss; for, if he give his labour for nothing, it cannot be presumed that he gave also security for the success of it. If he be hired, the question will depend upon the apprehension of the parties at the time of

making the contract ; which apprehension must be collected chiefly from custom. Universally, unless a *promise*, either express or tacit, can be proved against the agent, the loss must fall upon the owner.

But if the agent be a sufferer, can he claim a compensation for his loss ?

*d.* Unless the same be provided for by an express stipulation, he cannot : for where the danger is not foreseen, we cannot believe that the employer engaged to indemnify the agent against it,—still less where it is foreseen ; for whoever knowingly undertakes a dangerous employment, takes upon himself the danger and the consequences.

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What is the extent of an agent's obligation ? *a.* What is a principal difficulty in an agent's situation ? In what respect will the latitude allowed him vary ? *b.* If what is trusted to an agent be damaged, who is to bear the loss ? *c.* Is the agent, in case of loss on his own part, entitled to compensation ? *d.*

## CHAP. XIII.

### CONTRACTS OF LABOUR.

#### *Partnership.*

The only point upon this subject that requires explanation is, how the profits are to be divided, where one partner contributes money, and the other labour.

*a.* The rule is this : From the stock of the partnership deduct the sum advanced, and divide the remainder between the monied and the labouring partner, in the proportion of the interest of the money to the wages of the labourer, allowing such interest

as money might be borrowed for upon the same security, and such wages as a journeyman would require for the same labour.

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In the case of partnerships, how are the profits to be divided, when one partner contributes money, and the other labour? *a.*

## CHAP. XIV.

### CONTRACTS OF LABOUR.

#### *Offices.*

*a.* In many offices, as schools, fellowships, professorships, &c., there is a two-fold contract; one with the founder, the other with the electors. The contract with the founder obliges the incumbent of the office to discharge every duty appointed by the will of the founder; because the endowment was given, and accepted, upon this condition. The contract with the electors extends this obligation to all duties that have been *customarily* connected with the office, though not prescribed by the founder; for the electors expect from the person they choose, all the duties which his predecessors have discharged.

It is often asked what offices may be conscientiously supplied by a deputy.

*b.* An office may be discharged by deputy, except,

1. Where a particular confidence is reposed in the judgment and conduct of the person appointed to it; as the office of a steward, guardian, judge, commander-in-chief.

2. Where the custom hinders; as in the case of schoolmasters, tutors, and of commissions in the army or navy.

3. Where the duty cannot, from its nature, be so well performed by a deputy; as the deputy-governor

of a province may not possess the legal authority, or the actual influence, of his principal.

4. When some inconveniency would result to the service in general from the permission of deputies in such cases; thus, it is probable that military merit would be discouraged, if the duties belonging to commissions in the army were allowed to be executed by substitutes.

Here we may consider the case of the non-residence of the parochial clergy, who supply the duty of their benefices by curates.

*c.* Now suppose the curate to discharge every duty which his principal would be bound to discharge, and in a manner equally beneficial to the parish; in this case, the only objection (at least of the foregoing) to the absence of the principal, is the last, viz.: Where some inconveniency would result to the service in general from the permission of curates in such cases.

*d.* The force of this objection will be much diminished, if the absent rector or vicar be, in the mean time, engaged in any function of equal importance to the general interest of religion. For the whole revenue of the national church may be considered as a common fund for the support of the national religion: and if a clergyman be serving the cause of Christianity, it can make little difference, out of what particular portion of this fund his service be required.

*e.* All legal dispensations proceed upon the supposition that the absentee is detained from his living by some engagement of equal or of greater public importance.

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Mention the twofold contract in the case of schools, fellowships, &c.: state also the obligation arising out of each division of the contract. *a.* In what cases may an office be discharged by deputy? *b.* 1—4. What objection (taking the most favourable view) may be made to the non-residence of the parochial clergy? *c.* And how may the weight of this objection be diminished? *d.* Upon what supposition do all dispensations from residence proceed? *e.*

## CHAP. XV.

## LIES.

The obligation of veracity may be made out,

a. 1. From the consideration that a lie is a breach of promise: for whoever seriously addresses another, tacitly promises to speak the truth, because he knows the truth is expected.

2. From the direct ill consequences of lying to social happiness. Which consequences consist, either in some specific injury to individuals, or in the destruction of that confidence which is essential to the intercourse of human life.

b. There are *falsehoods* which are not *lies*; that is, which are not criminal: as,

1. Where no one is deceived; which is the case in parables, fables, jests, a servant's *denying* his master, a prisoner's pleading not guilty, an advocate asserting the justice of his client's cause. In such instances, no confidence is destroyed, because none was reposed; no promise to speak the truth is violated, because none was given, or understood to be given.

2. Where the person to whom you speak has no right to know the truth; or, rather, where little or no inconveniency results from the want of confidence in such cases; as where you tell a falsehood to a madman, for his own advantage; to a robber, to conceal your property; to an assassin, to divert him from his purpose.

c. It is upon this principle that it is allowed to deceive an enemy by feints, false colours, false intelligence, and the like; but by no means in treaties, signals of capitulation, or surrender: for whilst the war continues, there is no place for confidence betwixt the contending parties; but in whatever relates



to the *termination* of war, the most religious fidelity is expected, because without it wars could not cease, nor the victors be secure, but by the entire destruction of the vanquished.

d. The practice of indulging, in serious discourse, a habit of fiction and exaggeration, in the accounts they give of themselves, of their acquaintance, or of the extraordinary things which they have seen or heard; or, in other words, in *white lies*, is to be condemned. For,

1. It is impossible to pronounce beforehand, with certainty, concerning any lie, that it is inoffensive. *Volat irrevocabile*; and collects sometimes accretions in its flight, which entirely change its nature.

2. This liberty in conversation defeats its own end. Much of the pleasure, and all the benefit, of conversation, depends upon our opinion of the speaker's veracity; for which this rule leaves no foundation.

3. *White lies* introduce others of a darker complexion. We seldom hear of any who deserted truth in trifles, that could be trusted in matters of importance. The habit of lying, when once formed, is easily extended to serve the designs of malice or interest;—like all habits, it spreads indeed of itself.

e. *Pious frauds*, i.e. pretended inspirations, forged books, counterfeit miracles, are impositions of a more serious nature. They may sometimes have been set up with a design to do good: but the good they aim at, requires that the belief of them should be perpetual, which is hardly possible; and the detection of the fraud is sure to disparage the credit of all pretensions of the same nature. Christianity has suffered more injury from this cause, than from all other causes put together.

Other instances of *lies*, which are not direct *falsehoods*, are the following:

f. 1. Lies of prevarication, when the literal signification of a sentence is different from the popular

meaning. It is the wilful deceit that makes the lie ; and we wilfully deceive, when our expressions are not true in the sense in which we believe the hearer to apprehend them : besides that it is absurd to contend for any sense of words, in opposition to usage.

2. A man may *act* a lie ; as by pointing his finger in a wrong direction, when a traveller inquires of him his road ; for, to all moral purposes, and therefore as to veracity, speech and action are the same ; speech being only a mode of action.

3. Lies of *omission*. A writer of English history, who should suppress any evidence of Charles the First's despotic measures and designs, might be said to lie ; for, by entitling his book a *History of England*, he engages to relate the whole truth of the history, or, at least, all that he knows of it.

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How may the obligation of veracity be made out? *a.* 1, 2. There are *falsehoods* which are not *lies* : explain the import of this, and give instances. *b.* 1, 2. When is stratagem allowable in war? *c.* What is meant by *white lies*? *d.* Shew the evil consequence of indulging a habit of fiction and exaggeration in serious discourse. *d.* 1—3. What are *pious frauds*? Shew their bad effects. *e.* Adduce instances of *lies* which are not *direct falsehoods*. *f.* 1—3.

## CHAP. XVI.

### OATHS.

On this subject we may consider,

#### I. *The Forms of Oaths.*

*a.* These have in all ages been various : consisting however, for the most part, of some bodily action, and of a prescribed form of words. Amongst *b.* the Jews, the juror held up his right hand towards heaven ; and an oath of fidelity was taken, by the servant's putting his hand under the thigh of his lord ; from whence is derived perhaps

still more strongly, "*I call God for a record upon my soul.*" Both these expressions contain the nature of oaths. The Epistle to the Hebrews speaks of the custom of swearing judicially, without any mark of disapprobation: "Men verily swear by the greater; and an oath, for confirmation, is to them an end of all strife."

For these reasons, we explain our Saviour's words to relate, not to judicial oaths, but to the practice of vain, wanton, and unauthorised swearing, in common discourse.

#### IV. *Their obligation.*

A. Oaths are nugatory, that is, carry with them no proper force or obligation, unless we believe that God will punish false swearing with more severity than a simple lie, or breach of promise; for which belief there are the following reasons:

1. Perjury is a sin of greater deliberation. The juror has the thought of God and of religion upon his mind at the time. He offends, therefore, in the face, and in defiance, of the sanctions of religion. His offence implies a disbelief or contempt of God's knowledge, power, and justice; which cannot be said of a lie.

2. Perjury violates a superior confidence. Mankind must trust to one another; and they have nothing better to trust to, than one another's oath. Hence legal adjudications, which govern and affect every right and interest on this side of the grave, of necessity proceed and depend upon oaths. Perjury therefore, in its general consequence, strikes at the security of reputation, property, and even of life itself. A lie cannot do the same mischief, because the same credit is not given to it.

3. God directed the Israelites to swear by his name;\* and was pleased to confirm his covenant

\* Deut. vi. 13; x. 20:

with them by an oath; neither of which he would have done, had he not intended to represent oaths as having some meaning, beyond the obligation of a bare promise; which effect must be owing to the severer punishment with which he will vindicate the authority of oaths.

V. *What oaths do not bind.*

L. Promissory oaths are *not binding* where the promise itself would not be so.

VI. *In what sense oaths are to be interpreted.*

m. As oaths are designed for the security of the imposer, they must be *interpreted* and performed in the sense in which the imposer intends them; otherwise they afford no security to *him*. And this is the meaning and reason of the rule, "jurare in animum imponentis."

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What does Paley say concerning *the forms of oaths*? a. Give instances of forms in use amongst the Jews, Greeks, and Romans; and in Christian countries. b. c. d. What is the signification of an oath? e. What sects refuse to swear at all, and on what do they ground their scruples? f. Shew that the prohibition, "Swear not at all," does not forbid judicial oaths. g. 1—3. Whence arises the obligation of an oath? h. What reasons have we for supposing that God will punish perjury more severely than a simple lie? k. 1—3. In what cases are oaths not binding? l. How are oaths to be interpreted? m.

## CHAP. XVII.

### OATH IN EVIDENCE.

a. The witness swears "to speak the truth, the whole truth, and nothing but the truth, touching the matter in question." The law therefore requires of the witness, that he give a complete and unreserved account of what he knows of the sub-

ject of the trial, whether the questions proposed to him reach the extent of his knowledge or not.

*b.* There is one exception : which is, when a full discovery of the truth tends to accuse the witness himself of some *legal* crime : for the law of England constrains no man to become his own accuser. But the exception must be confined to *legal* crimes. A point of honour, of delicacy, or of reputation, will not justify the concealment of the truth. Neither is tenderness to the prisoner a just excuse for concealment ; for this would take the administration of justice out of the hands of judges and juries, and make it depend upon prosecutors and witnesses.

*c.* If questions be asked, which are irrelative to the cause, and of which the witness doubts the pertinency and propriety, he ought to refer his doubts to the court. The answer of the court, in relaxation of the oath, is authority enough to the witness ; for the law which imposes the oath, may remit what it will of the obligation.

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What is required by the *oath in evidence*? *a.* What exception is there to the general rule? *b.* If irrelevant questions be asked, what ought the witness to do? *c.*

## CHAP. XVIII.

### OATH OF ALLEGIANCE.

*a.* "I do sincerely promise and swear, that I will be faithful and bear true *allegiance* to his Majesty the King." Formerly it was : "I do promise to be true and faithful to the king and his heirs, and truth and faith to bear, of life, and limb, and terrene honour ; and not to know or hear of any ill or damage intended him, without defending him therefrom ;" and was altered at the Revolution to the present form.

It will be convenient to consider,

I. What the oath excludes as inconsistent with it.

b. 1. It excludes all intention to support the pretensions of any other person to the crown and government, than the reigning sovereign.

2. It excludes all design, at the time, of attempting to depose the reigning prince, for any reason whatever.

3. It forbids the taking up of arms against the reigning prince, with views of private advancement, or from motives of personal resentment or dislike. If there were any who engaged in the rebellion of the year forty-five, with the expectation of titles, estates, or preferment; or because they entertained a family animosity, or personal resentment, against the king or the minister; they added to the many crimes of an unprovoked rebellion, that of wilful and corrupt perjury.

II. What it permits, or does not require.

c. 1. It permits resistance to the king, when his ill-behaviour or imbecility is such, as to make resistance beneficial to the community. The Convention Parliament, which introduced the oath in its present form, could not intend to exclude all resistance, since the members of that legislature had many of them recently taken up arms against James the Second. Some resistance, therefore, was meant to be allowed; and, if any, it must be that which has the public interest for its object.

2. It does not require obedience to commands of the king, unauthorised by law. No such obedience is implied by the terms of the oath; the *fidelity* there promised, is intended of fidelity in opposition to his enemies, and not in opposition to law: and *allegiance*, at the utmost, can only signify obedience to lawful commands.

3. It does not require that we should continue our allegiance to the king, after he is actually deposed,

driven into exile, carried away captive, or otherwise rendered incapable of exercising the regal office. The promise of allegiance implies that the person to whom the promise is made continues king.

What is the form of the *oath of Allegiance*? And what alteration was made in it at the Revolution? *a.* State what this oath excludes (*b.* 1—3) and what it permits, or does not require. *c.* 1—3.

## CHAP. XIX.

### OATH AGAINST BRIBERY IN THE ELECTION OF MEMBERS OF PARLIAMENT.

*a.* "I do swear, I have not received, or had in trust for me, directly or indirectly, any sum of money, office, place, or employment, or any promise for the same, in order to give my vote at this election."

*b.* The several contrivances to evade this oath, such as accepting money under colour of borrowing it; receiving money from a stranger, or out of a drawer, left open for the purpose; or stipulating for any private advantage; if they escape the legal penalties of perjury, incur the moral guilt; for they are manifestly within the design of the statute which imposes the oath, and within the terms, indeed, of the oath itself; for the word "indirectly" is inserted on purpose to comprehend such cases as these.

What is the oath *against bribery*? *a.* What is forbidden by this oath? *b.*

## CHAP. XX.

### OATH AGAINST SIMONY.

*a.* From an imaginary resemblance between the purchase of a benefice, and Simon Magus's attempt

to purchase the gift of the Holy Ghost (Acts viii. 19), the obtaining of ecclesiastical preferment by pecuniary considerations has been termed *Simony*.

b. The sale of advowsons is inseparable from private patronage; as patronage would otherwise devolve to the most indigent, and for that reason the most improper hands it could be placed in. Nor did the law ever intend to prohibit the passing of advowsons from one patron to another; but to restrain the patron from being influenced, in the choice of his presentee, by a bribe, or benefit to himself. It is the same distinction with that which obtains in a freeholder's vote for his representative in parliament. The right of voting, that is, the freehold, may be bought and sold as freely as any other property; but the exercise of that right, the vote itself, may not be influenced by money.

The law adjudges to be simony,

c. 1. All payments, contracts, or promises, made by any person for a benefice *already vacant*. The advowson of a void turn, by law, cannot be transferred from one patron to another.

2. A clergyman's purchasing the *next turn*, of a benefice *for himself*, "directly or indirectly." The law does not prohibit a clergyman from purchasing the perpetuity of a patronage; but purchasing a perpetuity, and forthwith selling it again with a reservation of the next turn, is inconsistent with the oath.

3. The procuring preferment, by ceding to the patron any rights belonging to it. This is simony of the worst kind: for it is not only buying preferment, but robbing the succession to pay for it.

4. Promises to the patron of a portion of the profit, of a remission of tithes, or other advantage out of the produce of the benefice. This tends to introduce a practice of giving the revenue of churches to the lay patrons, and supplying the duty by indigent stipendiaries.



5. General bonds of resignation, that is, bonds to resign upon demand.

Explain the origin and import of the word *Simony*. *a.* Why is the sale of advowsons inseparable from private patronage? *b.* What does the law adjudge to be *Simony*? *c.* 1-5.

## CHAP. XXI.

### OATHS TO OBSERVE LOCAL STATUTES.

*a.* Members of colleges, and of other ancient foundations, are required to swear to the observance of their respective statutes; which observance is become, in many cases either unlawful, impracticable, or useless and inconvenient.

1. Unlawful. These are countermanded by the authority which made them unlawful.

2. Impracticable. These are dispensed with by the necessity of the case.

3. Inconvenient. These are satisfied, when nothing is omitted, but what, from some change in circumstances it may be fairly presumed that the founder himself would have dispensed with.

*b.* To bring a case within this rule, the *inconveniency* must—

1. Be manifest; concerning which there is no doubt.

2. It must arise from some change in the circumstances of the institution: for, if it existed at the time of the foundation, it must be presumed that the founder did not deem the avoiding of it of sufficient importance to alter his plan.

3. The statute must not only be inconvenient in the general, but prejudicial to the particular end proposed by the institution: for this alone proves that the founder would have dispensed with it.

What effect has time upon the statutes of corporate bodies? *a.* How are unlawful directions countermanded? *a.* 1. How are impracticable directions dispensed with? *a.* 2. In what case is a statute, which has become inconvenient, satisfied? *a.* 3. By what rules must we judge of the inconveniency of a statute? *b.* 1—3.

## CHAP. XXII.

## SUBSCRIPTION TO ARTICLES OF RELIGION.

*a.* Subscription to articles of religion, is nothing more than a *declaration* of the subscriber's assent, and governed by the *animus imponentis*.

The inquiry therefore concerning subscription will be,

1. Who imposed the articles?

*b.* The bishop who receives the subscription is not the imposer, any more than the crier of a court, who administers the oath to the jury and the witnesses, is the person that imposes it. Nor are the compilers of the Thirty-nine Articles the imposers of the subscription, any more than the drawer up of a law is the person that enacts it. But the legislature of the 13th Eliz. is the imposer, whose intention the subscriber is bound to satisfy.

II. What was the intention of the imposer?

*c.* They who contend, that nothing less can justify subscription to the Thirty-nine Articles, than the belief of every proposition contained in them, must suppose that the legislature expected the consent of ten thousand men, in perpetual succession, not to one controverted proposition, but to many hundreds. It is difficult to conceive how this could be expected by any, who observed the incurable diversity of human opinion upon all subjects short of demonstration.

If the authors of the law did not intend this, what

*d.* did they intend? *Ans.* They intended to exclude from offices in the church,

1. All abettors of popery.

2. Anabaptists; who were at that time a powerful party on the Continent.

3. The Puritans; who were hostile to an episcopal constitution: and in general the members of such leading sects or foreign establishments as threatened to overthrow our own.

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What is meant by *subscribing to Articles of Religion*? *a.* Who imposed the Thirty-nine Articles? *b.* Is a belief of every proposition contained in the Articles expected from a subscriber? *c.* What was the intention of the imposers? *d.* 1—3.

## CHAP. XXIII.

### WILLS.

The fundamental question upon this subject is, whether wills are of natural or of adventitious right? that is, whether the right of directing the disposition of property after his death belongs to a man in a state of nature, and by the law of nature, or be given him by the positive regulations of the country in which he lives?

*a.* The immediate produce of a man's labour, as the tools which he manufactures, the tent that he builds, and perhaps the flocks and herds which he breeds and rears, are as much his own as the labour was which he employed upon them, that is, are his property naturally and absolutely; and consequently he may leave them to whom he pleases.

But every other species of property, especially land, stands upon a different foundation. In a state of nature, a man's right to a particular spot of ground arises from his using it, and his wanting it; conse-

quently ceases with the use and want: so that at his death it reverts to the community, without any regard to the last owner's will, or even any preference of his family, further than as they become the first occupiers after him, and succeed to the same want and use. Moreover, as natural rights cannot, like rights created by act of parliament, expire at the end of a certain number of years; if the testator have a right, by the law of nature, to dispose of his property one moment after his death, he has the same right to direct the disposition of it for a million of ages after him; which is absurd.

b. The ancient apprehensions of mankind upon the subject were conformable to the account, that wills are of adventitious right: for, wills have been introduced into most countries by a positive act of the state; as by the Laws of Solon into Greece; by the Twelve Tables into Rome; and in this country, since the Conquest, lands could not be devised by will, till within little more than two hundred years ago, when this privilege was restored by an act of Parliament, in the latter end of the reign of Henry the Eighth.

The beneficial purposes attained by allowing individuals to bequeath their property are the following:—

c. It invites to industry: it encourages marriage; it secures the dutifulness and dependency of children.

From the consideration that wills are the creatures of the municipal law which gives them their efficacy, may be deduced a determination of the question, whether an *informal* will be binding upon the conscience of the heir at law.

d. By an *informal* will, is meant a will void in law for want of some requisite formality, though no doubt be entertained of its meaning or authenticity.

e. Generally speaking, the heir at law is not bound by the intention of the testator: for the intention can signify nothing, unless the person intending

have a right to govern the descent of the estate. Now this right the testator can only derive from the law of the land: but the law confers the right upon certain conditions, with which conditions he has not complied; therefore, the testator can lay no claim to the power which he pretends to exercise, as he hath not entitled himself to the benefit of that law, by virtue of which alone the estate ought to attend his disposal.

*f.* Anciently, when any one died without a will, the bishop of the diocese took possession of his personal fortune, in order to dispose of it for the benefit of his soul, that is, to pious or charitable uses. It became necessary, therefore, that the bishop should be satisfied of the authenticity of the will, when there was any, before he resigned the right which he had to take possession of the dead man's fortune in case of intestacy. In this way wills, and controversies relating to wills, came within the cognizance of ecclesiastical courts; under the jurisdiction of which, wills of personals (the only wills that were made formerly) still continue.

*g.* Succession to *intestates* must be regulated by positive rules of law, there being no principle of natural justice whereby to ascertain the proportion of the different claimants. These regulations should be guided by the duty and presumed inclination of the deceased, so far as these considerations can be consulted by general rules.

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Are wills of natural or of adventitious right? *a.* What were the ancient apprehensions of mankind on the subject of wills? *b.* What beneficial purposes result from the right of bequeathing property? *c.* What is meant by an *informal* will? *d.* Is an informal will binding upon the conscience of the heir at law? *e.* In what way did wills come within the cognizance of Ecclesiastical Courts? *f.* How ought succession to *intestates* to be regulated? *g.*

## BOOK III.

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### PART II.

#### OF RELATIVE DUTIES WHICH ARE INDETERMINATE.

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#### CHAP. I.

##### CHARITY.

*a.* The term Charity is used here neither in the common sense of bounty to the poor, nor in St. Paul's sense of benevolence to all mankind; but to signify *the promoting the happiness of our inferiors.*

*b.* Charity, in this sense, is the principal province of virtue and religion: for, whilst worldly prudence will direct our behaviour towards our superiors, and politeness towards our equals, there is little beside the consideration of duty, or an habitual humanity, to produce a proper conduct towards those who are beneath us, and dependant upon us.

*c.* There are three principal methods of promoting the happiness of our inferiors.

1. By the treatment of our domestics and dependants.

2. By professional assistance.

3. By pecuniary bounty.

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In what sense does Paley use the word charity? *a.* What does he take charity to be in this sense? *b.* What are the principal methods of promoting the happiness of our inferiors? *c.* 1—3.

masters, which is the consequence of pronouncing slavery to be unlawful, would have had no better effect, than to let loose one half of mankind upon the other. Slaves would have embraced a religion, which asserted their right to freedom; masters would hardly have consented to claims founded upon such authority; the most calamitous of all contests, a *bellum servile*, might have ensued, to the reproach, if not to the extinction, of the Christian name.

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Define slavery. *a.* From what causes may slavery arise, consistently with the law of nature? *b.* 1—3. Is the African slave-trade excused on these principles? *c.* Why is slavery not condemned in Scripture? *d.*

## CHAP. IV.

### PROFESSIONAL ASSISTANCE.

This is chiefly to be expected,

*a. 1. From members of the legislature.*

The care of the poor ought to be the principal object of all laws; for the rich are able to take care of themselves. Whoever, therefore, collects observations upon the state of the poor-laws, and contrives remedies for the abuses which he observes, and digests these remedies into acts of parliament; and conducts them through the legislature; deserves well of a class of the community so numerous, that their happiness forms a principal part of the whole. The activity thus employed, is charity in the most meritorious sense of the word.

*2. From magistrates.*

Parochial relief is entrusted, in the first instance, to overseers, who have an interest in opposition to that of the poor, inasmuch as whatever they allow them comes in part out of their own pocket. For this reason, the law has deposited with justices a

power of superintendence and control; and the judicious interposition of this power is a most useful exertion of charity.

3. *From medical professions.*

Of all private professions, that of medicine puts it in a man's power to do the most good at the least expense. Health, which is precious to all, is to the poor invaluable. And, with respect to the expense, drugs at first hand cost little, and advice costs nothing.

4. *From legal professions.*

The rights of the poor are not so important as their contentions are ruinous. A lawyer, of tolerable knowledge in his profession, has commonly judgment enough to adjust these disputes, without the expense of a law-suit; and he may be said to *give* a poor man twenty pounds, who prevents his throwing it away upon law.

5. *From the sacerdotal profession.*

Between argument and authority, (*i. e.* that authority which flows from voluntary respect, and attends upon sanctity and disinterestedness of character), something may be done, amongst the lower orders of mankind, towards the regulation of their conduct, and the satisfaction of their thoughts. This office belongs to the ministers of religion.

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What assistance may be expected by the poor, from the members of the legislature? (*a.* 1) from magistrates? (*a.* 2) from medical professions? (*a.* 3) from legal professions? (*a.* 4) from sacerdotal professions? *a.* 5.

## CHAP. V.

### PECUNIARY BOUNTY.

Under this head we may notice,

I. *The obligation to bestow relief upon the poor.*

*a.* This obligation may be shewn in various ways:

1. From the consideration that when pity, one of



receive it. Besides ; pensions and annuities, which are paid regularly, and can be expected at the time, are the only way by which we can prevent one part of a poor man's sufferings—the *dread* of want.

2. By subscription to public charities. Public charities admit of this argument in their favour, that your money goes farther towards attaining the end for which it is given, than it can do by any private beneficence.

3. The relief of beggars. The indiscriminate rejection of all who implore our alms, is not to be approved of. Men are sometimes overtaken by distress, for which all other relief would come too late. Besides ; resolutions of this kind compel us to offer such violence to our humanity, as may soon suffocate the principle itself : which is a serious consideration.

It is become a question of some importance under what circumstances works of charity ought to be private, and when, if ever, they may be made public without detracting from the merit of the action.

f. The author of our religion has delivered a rule which seems to enjoin universal secrecy :—"When thou doest alms, let not thy left hand know what thy right hand doeth ; that thy alms may be in secret, and thy Father, which seeth in secret, himself shall reward thee openly."\* From the preamble however to this prohibition, it is plain that our Saviour's sole design was to forbid *ostentation*, and all publishing of good works which proceeds from that motive. There are motives however for doing our alms in public, besides those of *ostentation*, with which therefore our Saviour's rule has no concern : such as to testify our approbation of some particular species of charity, and to recommend it to others.

\* Matt. vi. 3, 4.

III. *The pretences by which men excuse themselves from giving to the poor.*

g. 1. That they have nothing to spare," i.e. nothing for which they have not provided some other use; nothing which their plan of expense will not exhaust; never reflecting whether it be in their *power*, or that it is their *duty*, to retrench their expenses, or contract their plan, "that they may have to give to them that need."

2. "That charity does not consist in giving money, but in benevolence, love to all mankind," &c. Hear St. James:—"If a brother or sister be naked, and destitute of daily food, and one of you say unto them, Depart in peace; be ye warmed and filled; notwithstanding *ye give them not those things which are needful to the body*; what doth it profit?"\*

3. "That giving to the poor is not mentioned in St. Paul's description of charity."† This is not a description of charity, but of good-nature; and it is not necessary that every duty be mentioned in every place.

4. "That they pay the poor-rates." They might as well allege that they pay their debts: for the poor have the same right to that portion of a man's property which the laws assign to them, that the man himself has to the remainder.

5. "That they employ many poor persons:"—for their own sake, not the poor's;—otherwise it is a good plea.

6. "That we are liable to be imposed upon." If a due inquiry be made, our merit is the same.

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How may the obligation to bestow relief upon the poor be made out? a. 1–3. Shew that the recommendations to charity found in the Scriptures have produced their effect. b. What kind of charity seems to be recommended by St. Paul? c. Shew that the community of goods, which pre-

\* James ii. 15, 16.

† 1 Cor. xiii.

valled among the primitive Christians, is no precedent for our imitation. *d.* 1—3. Enumerate the different kinds of charity. *e.* 1—3. Under what circumstances may works of charity be made public? *f.* Mention some pretences by which men excuse themselves from giving to the poor. *g.* 1—6.

## CHAP. VI.

### RESENTMENT.

*a.* Resentment may be distinguished into *anger* and *revenge*.

*b.* By *anger*, is meant the pain we suffer upon the receipt of an injury or affront, with the usual effects of that pain upon ourselves. By *revenge*, the inflicting of pain upon the person who has injured or offended us, farther than the just ends of punishment or reparation require.

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How may *resentment* be divided? *a.* Define *anger* and *revenge*. *b.*

## CHAP. VII.

### ANGER.

*a.* "Be ye angry, and sin not;" therefore all anger is not sinful: probably, because some degree of it, and upon some occasions, is inevitable.

It becomes sinful, or contradicts the rule of Scripture.

*b.* 1. When it is conceived upon slight provocations: for, "charity suffereth long, is not easily provoked." — "Let every man be slow to anger."

2. When it continues long; for, "let not the sun go down upon your wrath."

These precepts, and all reasoning on the subject, suppose the passion of anger to be within our power;

and this power consists not so much in any faculty we possess of appeasing our wrath at the time, as in so mollifying our minds by habits of just reflection, as to be less irritated by impressions of injury, and to be sooner pacified. Reflections proper for this purpose, and which may be called the *sedatives* of anger, are the following :

c. The possibility of mistaking the motives of the conduct that offends us; how often *our* offences have been the effect of inadvertency, when they were construed into indications of malice; the inducement which prompts our adversary to act as he did; that he is suffering perhaps under a contrition, which he is ashamed, or wants opportunity, to confess; that the returns of kindness are sweet, and that there is neither honour, nor virtue, nor use, in resisting them. Add to this the indecency of extravagant anger; how it renders us, whilst it lasts, the scorn and sport of all about us; the inconveniences and irretrievable misconduct into which our irascibility has sometimes betrayed us; the friendships it has lost us; the distresses and embarrassments in which we have been involved by it; and the sore repentance which it always costs us. But the reflection best calculated to allay the haughtiness of temper which is ever finding out provocations, and which renders anger so impetuous, is that which the Gospel proposes, viz., that we ourselves are, or shortly shall be, suppliants for mercy and pardon at the judgment-seat of God.

Is anger all sinful? a. In what cases does anger become sinful? b. 1, 2. Mention some of the *sedatives* of anger. c.

## CHAP. VIII.

## REVENGE.

*a.* There can be no difficulty in knowing when we occasion pain to another; nor much in distinguishing whether we do so, with a view only to the ends of punishment, or from revenge: for, in one case we proceed with reluctance, in the other with pleasure.

*b.* It is highly *probable* from the light of nature, that a passion, which seeks its gratification expressly in giving pain, is disagreeable to the benevolent will of the Creator. Other passions may, and often do, produce pain: but then pain is not, as it is here, the object of the passion. This *probability* is converted into certainty, if we credit the passages of Scripture that condemn revenge, or, what is the same thing, which enjoin forgiveness.

The following are the principal of these passages:

*c.* "If ye forgive men their trespasses, your heavenly Father will also forgive you: but if ye forgive not men their trespasses, neither will your Father forgive your trespasses."—"Be patient towards all men; see that none render evil for evil to any man." "Avenge not yourselves, but rather give place unto wrath; for it is written, Vengeance is mine; I will repay, saith the Lord."\* Now it is evident, from some of these passages taken separately, and still more so from all of them together, that *revenge* is forbidden in every degree, under all forms, and upon every occasion.

But these prohibitions were not intended to interfere with the punishment or prosecution of public

\* Matt. vi. 14, 15. 1 Thess. v. 14, 15. Rom. xii. 19.

*d.* offenders. Our Saviour tells his disciples, "If thy brother who has trespassed against thee neglect to hear the church, let him be unto thee as a heathen man, and a publican." Immediately after this, when St. Peter asked him, "How oft shall my brother sin against me, and I forgive him? till seven times?" Christ replied, "I say not unto thee until seven times, but until seventy times seven;" that is, as often as he repeats the offence. From these two adjoining passages compared together, we may conclude that the forgiveness of an enemy is not inconsistent with the proceeding against him as a public offender. And if the magistrate be not tied down with these prohibitions from the execution of his office, neither is the prosecutor; for the office of the prosecutor is as necessary as that of the magistrate. Nor, by parity of reason, are private persons withholden from the correction of vice; provided it is the guilt which provokes them, and not the injury.

*e.* Christ, who estimated virtues by their solid utility, and not by their popularity, prefers this of the forgiveness of injuries to every other. He enjoins it oftener; with more earnestness; under a greater variety of forms; and with this weighty and peculiar circumstance, that the forgiveness of others is the condition upon which alone we are to expect, or even ask, from God, forgiveness for ourselves.

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How may we discover whether the pain we occasion to another proceeds from revenge, or not? *a.* Shew the sinfulness of revenge from the light of nature (*b*;) and from Scripture. *c.* Shew that the passages of Scripture which condemn revenge do not interfere with the punishment of public offenders. *d.* What virtue does Christ prefer to every other? *e.*

## CHAP. IX.

## DUELLING.

a. Duelling as a punishment is absurd ; because it is an equal chance, whether the punishment fall upon the offender, or the person offended. Nor is it much better as a reparation ; it being difficult to explain in what the *satisfaction* consists, or how it tends to undo the injury, or to afford a compensation for the damage already sustained. The truth is, it is not considered as either. A law of honour having annexed the imputation of cowardice to patience under an affront, challenges are given and accepted with no other design than to preserve the duellist's own reputation and reception in the world.

As to the duty and conduct of individuals, while such a rule exists, the proper and single question is this, whether a regard for our own reputation is, or is not, sufficient to justify the taking away the life of another ?

b. Murder is forbidden ; and wherever human life is deliberately taken away, otherwise than by public authority, there is murder. No other idea or definition of murder can be admitted, which will not let in so much private violence, as to render society a scene of peril and bloodshed. If unauthorised laws of honour be allowed to create exceptions to Divine prohibitions, there is an end of all morality, as founded in the will of the Deity ; and the obligation of every duty may be discharged by the caprice and fluctuations of fashion.

“ But a sense of shame is so much torture ; and no relief presents itself otherwise than by an attempt upon the life of our adversary.” What then ? The dis-

c. tress which men suffer by want is often extreme, and no resource can be discovered but that of removing a life which stands between the distressed person and his inheritance. The motive in this case is as urgent, and the means much the same as the former ; yet this case finds no advocate.

d. Take away the circumstance of the duellist's exposing his own life, and it becomes assassination ; add this circumstance, and what difference does it make ? None but this, that fewer perhaps will imitate the example, and human life will be somewhat more safe, when it cannot be attacked without equal danger to the aggressor's own. Experience, however, proves that there is fortitude enough in most men to undertake this hazard.

e. In expostulating with the duellist, we are at liberty to suppose his adversary to fall : because, if he have no right to kill his adversary, he has none to attempt it.

f. We may forbear from applying to the case of duelling the Christian principle of the forgiveness of injuries ; because we may suppose the injury forgiven, and the duellist to act entirely for his own reputation : when this is not so, the guilt of duelling is manifest, and is greater.

g. In this view of the subject it seems unnecessary to distinguish between him who gives, and him who accepts, a challenge : for, on the one hand, they incur an equal hazard of destroying life ; and on the other, both act upon the same persuasion, that what they do is necessary, in order to recover or preserve the good opinion of the world.

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Shew the absurdity of *duelling* either as a punishment or a reparation ; and also what the real motive for resorting to it is. a. Is a regard for our reputation sufficient to justify the taking away the life of another ? b. Shew that a "sense of shame" is no excuse for duelling. c. What is the difference between assassination and death by duelling ? d.



In expostulating with the duellist, what does Paley all along suppose? *e.* Why does Paley forbear from applying to the case of duelling the Christian principle of the forgiveness of injuries? *f.* Why is it unnecessary to distinguish between the giver and the receiver of the challenge? *g.*

## CHAP. X.

### LITIGATION.

*a.* "If it be *possible*, live peaceably with all men;" which is an indirect confession that this is not always *possible*.

When one of the officers struck Jesus, we find Jesus rebuking him for the outrage; "If I have spoken evil, bear witness of the evil; but if well, why smitest thou me?" A rule which forbade all opposition to injury, could have no other effect than to put the good in subjection to the bad, and deliver one half of mankind to the depredation of the other. St. Paul also, though no one inculcated forgiveness and forbearance with a deeper sense of the value and obligation of these virtues, did not interpret either of them to require an unresisting submission to every contumely, took refuge in the laws of his country, and in the privileges of a Roman citizen, from the conspiracy of the Jews (Acts xxv. 11); and from the clandestine violence of the chief captain (Acts xxii. 25.)

From what has been said, we may infer:—

*b.* I. When a lawsuit is inconsistent with the Gospel.

Christianity excludes all vindictive motives, and all frivolous causes of prosecution; so that where the injury is small, where no good purpose of public example is answered, where forbearance is not likely

to invite a repetition of the injury, or where the expense of an action becomes a punishment too severe for the offence : there the Christian is withholden by the authority of his religion from going to law.

II. When it is not inconsistent.

1. For the establishing of some important right.

2. For the procuring a compensation for some considerable damage.

3. For the preventing of future injury.

But, since it is supposed to be undertaken simply with a view to the ends of justice and safety, the prosecutor is bound to confine himself to the cheapest process which will accomplish these ends, as well as to consent to any peaceable expedient for the same purpose : as to a *reference*, or to a *compounding of the dispute*.

As to the rest, the duty of the contending parties is :

c. Not by appeals to prolong a suit against your own conviction :—Not to undertake or defend a suit against a poor adversary, or render it more dilatory or expensive than necessary :—Not to influence *evidence* by authority or expectation ; nor to stifle any in your possession, although it make against you.

So much for civil actions.

d. In criminal prosecutions, the private injury should be forgotten, and the prosecutor proceed with the same temper, and upon the same motives, as the magistrate.

In whatever degree the punishment of an offender is conducive, or his escape dangerous, to the interest of the community, in the same degree is the party against whom the crime was committed bound to prosecute, because such prosecutions must in their nature originate with the sufferer.

Prosecutions for the sake of the reward, or for the gratification of private enmity, when the offence produces no public mischief, or where it arises from

ignorance or inadvertency, are reprobated under the general description of *applying a rule of law to a purpose for which it was not intended.*

Shew from the Scriptures that all opposition to injury is not prohibited. *a.* Shew when a lawsuit is inconsistent with the Gospel (*b. I.*); and also when it is not *b. II. 1-3.* What is the duty of the contending parties? *c.* What is the duty of a prosecutor in criminal prosecutions? *d.*

## CHAP. XI.

### GRATITUDE.

*a.* Gratitude ought to be cultivated for two reasons:—

1. Examples of ingratitude check and discourage voluntary beneficence: and in this, the mischief of ingratitude consists. Nor is the mischief small; for after all is done that can be done, towards providing for the public happiness, much must be left to those offices of kindness, which men remain at liberty to exert or withhold.

2. The same principle, which is touched with the kindness of a human benefactor, is capable of being affected by the Divine goodness, and of becoming, under the influence of that affection, a source of the purest and most exalted virtue. The love of God is the sublimest gratitude. It is a mistake, therefore, to imagine, that this virtue is omitted in the Christian Scriptures; for every precept which commands us "to love God because he first loved us," presupposes the principle of gratitude, and directs it to its proper object.

Why ought gratitude to be cultivated and practised?  
*a. 1, 2.*

## CHAP. XII.

## SLANDER.

*a.* Speaking is acting both in philosophical strictness and as to all moral purposes: for, if the mischief and motive of our conduct be the same, the means which we use make no difference. And this is in effect what our Saviour declares, "By thy words thou shalt be justified, and by thy words thou shalt be condemned,"\* by thy words, as well, that is, as by thy actions; for they both possess the same property of voluntarily producing good or evil.

Slander may be distinguished into two kinds,

*b. 1. Malicious*, which is the relating of either truth or falsehood, for the purpose of creating misery.

Although the truth or falsehood of what is related, varies the degree of guilt considerably; yet truth may be made instrumental to the success of malicious designs as well as falsehood: and if the end be bad, the means cannot be innocent.

The guilt must be measured by the intensity and extent of the misery produced.

*2. Inconsiderate*, which is the relating of either truth or falsehood, but not for the express purpose of creating misery.

The guilt here consists in the want of that regard to the consequences of our conduct, which a just affection for human happiness, and concern for our duty, would not have failed to have produced in us.

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How does Paley shew that *speaking is acting*? *a.* Define, and state the guilt of *malicious* (*b. 1.*); and of *inconsiderate* slander. *b. 2.*

\* Matt. xii. 37.

## BOOK III.

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### PART III.

#### OF RELATIVE DUTIES WHICH RESULT FROM THE CONSTITUTION OF THE SEXES.

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#### CHAP. I.

##### OF THE PUBLIC USE OF MARRIAGE INSTITUTIONS.

THE public use of marriage institutions consists in their promoting the following beneficial effects :

a. 1. The private comfort of individuals, especially of the female sex.

2. The production of the greatest number of healthy children ; their better education, and the making of due provision for their settlement in life.

3. The peace of human society, in cutting off a principal source of contention, by assigning one or more women to one man.

4. The better government of society, by distributing the community into separate families, and appointing over each the authority of a master of a family, which has more actual influence than all civil authority put together.

5. The same end in the additional security which the state receives for the good behaviour of its citizens, from the solicitude they feel for the welfare of their children.

6. The encouragement of industry.

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In what does the public use of marriage institutions consist? a. 1—6.

## CHAP. II.

## FORNICATION.

The guilt of fornication consists in the following baneful effects :

a. 1. It tends to diminish marriages.

2. It supposes prostitution : and prostitution brings the victims of it to almost certain misery.

3. It produces habits of ungovernable lewdness, which introduce the more aggravated crimes of seduction, adultery, violation, &c. It also corrupts and depraves the mind and moral character more than any single species of vice whatsoever.

4. It perpetuates a disease, which is one of the sorest maladies of human nature ; the effects of which are said to visit the constitution of even distant generations.

b. The Christian Scriptures condemn fornication absolutely and peremptorily. " Out of the heart," says our Saviour, " proceed adulteries, *fornication*, &c., these are the things which defile a man." These are Christ's own words : and one word from him upon the subject, is final. It may be observed that fornication is classed with murders, thefts, false witness, blasphemies. This proves that they are all crimes.

The case of *kept mistresses*, under the favourable circumstances of mutual fidelity, which, no doubt, is different from vagrant concubinage, is sometimes defended as follows :

c. " That the marriage-rite, being different in different countries, and with some scarce anything, and not being even mentioned in Scripture, can be accounted only a ceremony of human invention : that, consequently, if a man and woman betroth and con-

fine themselves to each other, their intercourse must be the same, as to all moral purposes, as if they were legally married."

To which it may be replied,

I. As to the state of the parties themselves.

*d.* 1. If their situation be the same thing as marriage, why do they not marry?

2. If the man chooses to have it in his power to dismiss the woman at his pleasure, or to retain her in a state of dependence inconsistent with the rights of marriage, it is not the same thing. It is not, at any rate, the same thing to the children.

II. As to the mere formality of the rite.

*e.* As to the marriage-rite being a mere form, and that also variable, the same may be said of bonds, wills, &c., which yet make a great difference in the rights and obligations of the parties concerned in them.

III. As to the rite not being enjoined in Scripture.

*f.* The Scriptures forbid fornication, that is cohabitation without marriage, leaving it to the law of each country to pronounce what is, or what makes, a marriage: like as they forbid thefts, leaving it to the municipal law to fix what makes the thing property.

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Enumerate the evil consequences of fornication. *a.* 1—4. What do the Scriptures say concerning fornication? *b.* How is the case of kept mistresses generally defended? *c.* How does Paley meet this defence, as to the state of the parties? (*d.* 1—2); as to the mere formality of the marriage-rite? (*e.*); and as to its not being enjoined in Scripture? *f.*

## CHAP. III.

## SEDUCTION.

a. The injury of seduction is threefold :

1. To the woman. This is made up of the *pain* she suffers from shame, or the *loss* she sustains in her reputation and prospects of marriage, and of the *depravation of her moral principle*.

2. To her family. This may be understood by the application of that infallible rule, "of doing to others, what *we would* that others should do unto us."—Let a father or a brother say, for what consideration they would suffer this injury to a daughter or a sister.

3. To the public. They lose the benefit of the woman's service in her proper place, as a wife and parent. Moreover, prostitution is supplied by seduction.

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What are the evil consequences of *seduction*? a. 1–3.

## CHAP. IV.

## ADULTERY,

a. A new sufferer is introduced—the injured husband. In all other respects, adultery on the part of the man includes the crime of seduction, and is attended with the same mischief.

The infidelity of the woman is aggravated by cruelty to her children, who are involved in their parents' shame, and always made unhappy by their quarrel.

The marriage vow "is witnessed before God," and accompanied with circumstances of solemnity and



religion, which approach to the nature of an oath. The married offender therefore incurs a crime little short of perjury.

The history of the woman taken in adultery\* has been thought to countenance that crime.

*b.* An attentive examination of the case will convince us, that from it nothing can be concluded as to Christ's opinion concerning adultery. It appears that the object of the woman's accusers was to tempt Jesus, *i.e.* to draw him into an exercise of judicial authority, that they might accuse him before the Roman governor of usurping the civil government. This was their design; and Christ's behaviour proceeded from a knowledge of this design, and a determination to defeat it. When Christ asked the woman, "Hath no man *condemned* thee?" he certainly spoke, and was understood by the woman to speak, of a legal or judicial condemnation; otherwise, her answer was not true. In every other sense of condemnation, as blame, censure, reproof, private judgment, and the like, many had condemned her; all those indeed who brought her to Jesus. If then a judicial sentence was what Christ meant by *condemning* in the question, we must suppose that he meant the same in his reply, "Neither do I condemn thee," *i.e.* I pretend to no judicial character or authority over thee; it is no office or business of mine to pronounce or execute the sentence of the law.

When Christ adds, "Go, and sin no more," he in effect tells her, that she had sinned already.

In what do *adultery* and *fornication* differ?—and what circumstances aggravate the guilt of the former? *a.* Shew that the history of the woman taken in adultery gives no countenance to that crime. *b.*

\* John viii.

## CHAP. V.

### INCEST.

*a.* In order to preserve chastity in families, and between persons of different sexes, brought up in unreserved intimacy, it is necessary to inculcate an abhorrence of incestuous conjunctions; which can only be done by the reprobation of *all* commerce of the sexes between near relations.

*b.* Amongst the Athenians, a very singular regulation prevailed; brothers and sisters of the half blood, if related by the father's side, might marry; if by the mother's side, they were prohibited from marrying. The same custom probably obtained in Chaldea so early as Abraham's time; for he and Sarah stood in this relation to each other.\*

Upon what principle is *incest* forbidden by the *law of nature*? *a.* What custom seems to have prevailed amongst the Athenians and Chaldeans respecting marriage between near relations? *b.*

## CHAP. VI.

### POLYGAMY.

*a.* Polygamy is to be condemned for the following reasons:—

1. It violates the constitution of nature.

The equality in the number of males and females, intimates the intention of God, that one woman should be assigned to one man.

2. It violates the apparent design of the Deity.

\* Gen. xx. 12.

It seems a significant intimation of the Divine Will, that he at first created only one woman to one man.

Had God intended polygamy for the species it is probable he would have begun with it.

3. It produces to the parties themselves, and to the public, the following bad effects: contests and jealousies amongst the wives; distracted affections in the husband; a voluptuousness in the rich; neglect of children, &c.

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For what reasons is *polygamy* to be condemned? a. 1—3.

## CHAP. VII.

### OF DIVORCE.

a. By *divorce* is here meant the dissolution of the marriage contract, by the act, and at the will, of the husband; because this is the way in which they have actually obtained in many parts of the world.

This power was allowed among the Jews, the Greeks, and latter Romans; and is now exercised by the Turks and Persians.

b. It is, however, manifestly inconsistent with the duty which parents owe to their children; which can never be so well fulfilled as by their cohabitation and united care. And it is also incompatible with the right which the parents possess, to the gratitude of their children, and the comfort of their society.

c. The marriage contract should be indissoluble during the joint lives of the parties, for the sake of the following advantages:—

1. Because this tends to preserve peace between married persons, by perpetuating their common interest, and by inducing a necessity of mutual compliance.

2. Because new objects of desire would be continually sought after, if men could, at will, be released from their subsisting engagements. There is no other security against the invitations of novelty, than the known impossibility of obtaining the object.

d. The law of nature admits of an exception in favour of the injured party, in cases of adultery, of obstinate desertion, of attempts upon life, of outrageous cruelty, of incurable madness, and perhaps of imbecility.

e. The Christian Scriptures, however, seem to have drawn the obligation tighter than the law of nature left it. They confine divorces to the single case of adultery in the wife.

The law of this country is conformable to our Saviour's injunction. And a divorce even in that case, can only be brought about by the operation of an act of parliament, founded upon a previous sentence in the ecclesiastical court, and a verdict against the adulterer at common law.

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In what sense does Paley use the word *divorce*, and why? What nations allowed it? a. Shew the incongruity of such a right with the law of nature. b. For what reasons ought the marriage-contract to be indissoluble? c. 1, 2. Of what exception in favour of the injured party does the law of nature admit? d. In what case do the Scriptures permit divorce? What is the law of this country on the subject? e.

## CHAP. VIII.

### MARRIAGE.

a. Although marriage, in its own nature, be properly only a civil contract; the marriage-rite, in almost all countries, has been made a religious ceremony.

*b.* In treating of the marriage vow, we shall consider :—

1. What duties it creates.

The parties by this vow engage their personal fidelity; they engage likewise to consult and promote each other's happiness; the wife, moreover, promises *obedience* to her husband.

2. What situation of mind at the time is inconsistent with it:

Whoever is conscious, at the time of his marriage, of a dislike to the woman he is about to marry, or of an attachment to some other woman, is guilty, when he pronounces the marriage vow, of a direct and deliberate prevarication; and that too in the presence of the Supreme Being. The same likewise of the woman.

3. By what subsequent behaviour it is violated.

i. By adultery.

ii. By any behaviour which, knowingly, renders the life of the other miserable.

Is marriage a civil or religious ceremony? *a.* What duties does the marriage-contract create? *b.* 1. What situation of mind at the time is inconsistent with it? *b.* 2. By what subsequent behaviour is it violated? *b.* 3. i. ii.

## CHAP. IX.

### OF THE DUTY OF PARENTS.

Under this head it will be proper,

1. *To notice the place which parental duties hold in the scale of human virtues.*

*a.* That virtue, which confines its beneficence within the walls of a man's own house, has sometimes been considered little better than a more refined selfishness: yet the subject and matter of this class of duties are

inferior to none in utility and importance : and where is virtue the most valuable, but where it does the most good ? What duty is the most obligatory, but that on which the most depends ? And where have we happiness and misery so much in our power, or liable to be so affected by our conduct, as in our own families ? If, therefore the low estimation of these virtues be well founded, it must be owing, not to their inferior importance, but to some defect or impurity in the motive. And although a man seldom rises high in our esteem who has nothing to recommend him beside the care of his own family, yet we always condemn the neglect of this duty with the utmost severity. Universally, wherever a parent's conduct is directed by a sense of duty, there is so much virtue.

II. *To state and explain the duties themselves.*

b. When moralists tell us, that parents are bound to do *all they can* for their children, they tell us more than is true ; for, at that rate, every expense which might have been spared, and every profit omitted which might have been made, would be criminal.

The duty of parents, then, may be explained under the several heads of,

c. 1. *Maintenance.*

The wants of children make it necessary that some person maintain them ; and as no one has a right to burthen others by his act, it follows, that the parents are bound to undertake this charge. Besides ; the affection of parents to their children, and the provision which nature has prepared in the mother for the sustentation of the infant, concerning the existence and design of which there can be no doubt, are manifest indications of the Divine will.

The Scriptures too have declared in explicit terms the obligation of this duty : " If any provide not for his own, especially for those of his own household, he hath denied the faith, and is worse than an

## CHAP. X.

## THE RIGHTS OF PARENTS.

*a.* The rights of Parents result from their duties. If it be the duty of a parent to educate his children, to provide for them situations needful for their subsistence and suited to their circumstances, and to prepare them for those situations; he has a right to such authority, and in support of that authority to exercise such discipline, as may be necessary for these purposes. The law of nature acknowledges no other foundation of a parent's right over his children, besides his duty towards them. (Such rights are here meant as may be enforced by coercion). This relation confers no property in their persons, or natural dominion over them. And since it is, in general, necessary to determine the destination of children before they are capable of judging of their own happiness, parents have a right to elect professions for them.

*b.* From this principle, "that the rights of parents result from their duty," it follows that parents have no natural right over the lives of their children; nor any to exercise unprofitable severities; nor to command the commission of crimes: for these rights can never be wanted for the purpose of a parent's duty. Nor, for the same reason, have parents any right to sell their children into slavery.

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Whence do the rights of parents result? *a.* Have parents any natural right over the lives of their children? *b.*

## CHAP. XI.

## THE DUTY OF CHILDREN.

The duty of Children may be considered,

*a. I. During childhood.*

Children must have attained to some degree of discretion before they are capable of any duty. There is an interval between the dawning and the maturity of reason, in which it is necessary to subject their inclination to many restraints, and direct their application to many employments, of the tendency and use of which they cannot judge; for which cause, their submission during this period must be ready and implicit, with an exception, however, of any manifest crime which may be commanded them.

*II. After they have attained to manhood, but continue in their father's family.*

In this case they are bound, beside the general duty of gratitude, to observe such regulations of the family as the father shall appoint; contribute their labour to its support, if required; and confine themselves to such expenses as he shall allow.

*III. After they have attained to manhood, and have left their father's family.*

In this state, the duty to parents is simply that of gratitude; not different *in kind*, from that which we owe to any other benefactor; *in degree*, just so much exceeding other obligations, by how much a parent has been a greater benefactor than any other friend. Filial gratitude will show itself in compliances with the will of the parents; in a constant endeavour to promote their enjoyments, prevent their wishes, and soften their anxieties; in assisting them in their business; in contributing to their support, ease, or better accommodation, when their circumstances require it; in affording them our company; in waiting upon their sickness or decrepitude; in bearing with the infirmities of their health or temper, with the peevishness



and complaints, the negligent and austere manners, and offensive habits, which often attend upon advanced years: for where must old age find indulgence, if it do not meet with it in the piety and partiality of children?

*b.* The most serious contentions between parents and their children are those which relate to marriage, or to the choice of a profession.

A parent has no right to destroy his child's happiness. If, therefore, there exist such attachments between individuals of different sexes, that the possession of a particular man or woman in marriage be necessary for the child's happiness; or if it be true, than an aversion to a particular profession may be involuntary and unconquerable; parents, where this is the case, ought not to urge their authority, and the child is not bound to obey it.

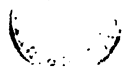
*c.* Parents are forbidden to interfere, where a trust is reposed personally in the son; as is the case with judicial magistrates in the execution of their office; with members of the legislature in their votes; and with electors.

*d.* The duty of children to their parents was thought worthy to be made the subject of one of the Ten Commandments; and, as such, is recognised by Christ in various places of the Gospel.

*Obedience* to parents is also enjoined by St. Paul to the Ephesians: "Children, obey your parents in the Lord, for this is right;" and to the Colossians: "Children, obey your parents in all things, for this is well-pleasing unto the Lord."

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What are the duties of children during childhood? (*a. I.*) after they have attained to manhood, but continue in their father's family? (*a. II.*); after they have attained to manhood, and have left their father's family? *a. III.* Is a child bound to obey his parents in every case? *b.* When are parents forbidden to interfere with the actions of their children? *c.* What is said of the duty of children in Scripture? *d.*



## BOOK IV.

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### DUTIES TO OURSELVES.

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#### CHAP. I.

##### THE RIGHTS OF SELF-DEFENCE.

a. It has been said, that in a state of nature we might lawfully defend the most insignificant right, provided it were a perfect determinate right, by any extremities which the obstinacy of the aggressor rendered necessary. But it is doubtful whether the general rule be worth sustaining at such an expense. The person attacked must balance between the general consequence of yielding, and the particular effect of resistance. However, this right, if it exist in a state of nature, is suspended by the establishment of society: for *thereby* remedies are provided against attacks upon property. Moreover, as the individual is assisted in the recovery of his right, or of a compensation, by the public strength, it is no less equitable than expedient, that he should submit to public arbitration the kind, as well as the measure, of the satisfaction which he is to obtain.

b. There is one case in which all extremities are justifiable; namely, when our life is assaulted, and it becomes necessary for our preservation to kill the

assailant. This is evident in a state of nature; unless it can be shewn, that we are bound to prefer the aggressor's life to our own, that is to say, to love our enemy *better* than ourselves. Nor is the case altered by our living in civil society; because, in this case, the laws of society cannot interpose to protect us, nor compel restitution. This liberty is restrained to cases in which no other means of preserving our life remain, as flight, calling for assistance, disarming the adversary, &c.

Homicide, in *England*, is justifiable;

c. 1. To prevent the commission of a crime, which, when committed, would be punishable with death. Thus, it is lawful to shoot a highwayman, or one attempting to break into a house *by night*; but not so if the attempt be made in the day-time.

2. In necessary endeavours to carry the law into execution, as in suppressing riots, apprehending malefactors, preventing escapes, &c.

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Is it lawful, in a state of nature, to defend every right by force; if so, why is this right suspended by the establishment of civil society? a. In what cases are extremities justifiable, and why? b. In what cases is homicide justifiable in England? c. 1—2.

## CHAP. II.

### DRUNKENNESS.

a. Drunkenness is either actual or habitual; just as it is one thing to be drunk, and another to be a drunkard. Casual excesses partake of *part* of the guilt and danger of habitual drunkenness; and of *all* of it in a certain degree; as every habit is only a repetition of single instances.

*b.* The mischief of drunkenness, from which we are to compute its guilt, consists in the following bad effects :

1. It betrays most constitutions either to extravagancies of anger, or sins of lewdness.

2. It disqualifies men for the duties of their station, both by the temporary disorder of their faculties, and at length by a constant incapacity and stupefaction.

3. It is attended with expenses, which can often be ill spared.

4. It is sure to occasion uneasiness to the family of the drunkard.

5. It shortens life.

6. It is dangerous on account of the *example*.

Drunkenness is a social festive vice ; peculiarly apt to draw in others by the example. The drinker collects his circle ; the circle naturally spreads ; of those who are drawn within it, many become the corruptors and centres of sets and circles of their own : every one countenancing, and perhaps emulating the rest, till a whole neighbourhood be infected from the contagion of a single example.

*c.* Drunkenness is repeatedly forbidden by St. Paul : " Be not drunk with wine, wherein is excess." " Let us walk honestly as in the day, not in rioting and drunkenness."

It is a question of some importance, how far drunkenness is an excuse for the crimes which the drunken person commits.

*d.* If the drunken person be deprived of moral agency, that is to say, of all reflection and foresight, he is no more capable of guilt than a madman. The only guilt with which he is chargeable, was incurred when he brought himself into this situation. And as every man is responsible for the consequences which he foresaw, or might have foreseen, this guilt will be in proportion to the probability of such consequences

ensuing. From which principle results the following rule, viz., that the guilt of any action in a drunken man bears the same proportion to the guilt of a like action in a sober man, that the probability of its being the consequence of drunkenness bears to absolute certainty. Hence those vices which are the *known* effects of drunkenness, are nearly as criminal, as if committed by an individual with all his faculties and senses about him. If the privation of reason be only partial, the guilt will be of a mixed nature. For so much of his self-government as the drunkard retains, he is as responsible then as at any other time. A person in this condition incurs part of the guilt at the instant of perpetration; and by bringing himself into such a condition, he incurred that fraction of the remaining part, which the danger of this consequence was of an integral certainty.

e. The appetite for intoxicating liquors appears to be almost always *acquired*. One proof of which is, that it is apt to return only at particular times and places: as after dinner, in the evening, on the market-day, at the market-town, in such a company, at such a tavern. And this may be the reason that, if a habit of drunkenness be ever overcome, it is upon some change of place, company, or profession.

f. Habits of drunkenness commonly take their rise from a fondness of some company or companion, already addicted to this practice; or from want of regular employment; or, lastly, from grief or fatigue. But the habit, when once set in, is continued by different motives from those to which it owes its origin. Persons addicted to this habit suffer, in the intervals of sobriety, a faintness *circa præcordia*. This is usually relieved for a short time by a repetition of the same excess. But as the liquor loses its *stimulus*, the dose must be increased; which increase accelerates the progress of all the maladies that drunkenness brings on.

How does Paley divide drunkenness? Wherein consists the guilt of casual excesses? *a.* What are the evil consequences of drunkenness? *b.* 1—6. What do the Scriptures say of drunkenness? *c.* How far is drunkenness an excuse for the crimes which the drunken person commits? *d.* Shew that the appetite for intoxicating liquors is almost always *acquired.* *e.* From whence do habits of drunkenness generally arise? *f.*

## CHAP. III.

## SUICIDE.

## I. From the light of nature.

*a.* The true question in this argument is : May every man who chooses to destroy his life, innocently do so? Limit and distinguish the subject as you can, it will come at last to this question.

For, shall we say that we are at liberty to commit suicide when we become useless to mankind?

*b.* Any one who pleases, may make himself useless; and melancholy minds are prone to think themselves useless, when they are not so. Besides; no one is *useless* for the purpose of this plea, but he who has lost every capacity and opportunity of being useful, together with the possibility of recovering any degree of either; which is a state of such complete destitution and despair as cannot be predicated of any man living.

Besides; by continuing in the world, and in the exercise of those virtues which remain within our power, we retain the opportunity of meliorating our condition in a future state. This argument, it is true, does not in strictness prove suicide to be a crime; but if it supply a motive to dissuade us from committing it, it amounts to much the same thing.

Or, shall we say, that to depart voluntarily out of life, is lawful for those who leave none to lament *c.* their death? If this consideration is to be taken into the account, the debate will be, not whether there are any to-sorrow for us, but whether their sorrow for our death will exceed that which we should suffer by continuing to live.

In like manner, whatever other rule you assign, it will ultimately lead to an indiscriminate toleration of *d.* suicide: the effect of which would be, the loss of many lives to the community; the affliction of *many* families, and the consternation of *all*.

## II. From Scripture.

*e.* Here it must be acknowledged, that there is no express determination of the question, nor sufficient evidence to prove, that the case of suicide was in the contemplation of the law which prohibited murder. And although they who were authorized to instruct mankind, have not decided a question which never, so far as appears to us, came before them: yet they have left enough to constitute a presumption how they would have decided it, had it been proposed. Thus,

*f.* 1. Human life is spoken of as a *term* assigned or prescribed to us. "Let us run with patience the race that is set before us."—"I have finished my course."—"That I may finish my course with joy." These expressions appear inconsistent with the opinion, that we are at liberty to determine the duration of our own lives. If this were the case, with what propriety could life be called a *race that is set before us*; or "*our course*," that is, the course set out or appointed to us?

2. There is not one quality which Christ and his Apostles inculcate upon their followers so often, or so earnestly, as that of patience under affliction. Now this virtue would have been in a great measure superseded, and the exhortations to it might have been

spared, if the disciples of his religion had been at liberty to quit the world as soon as they grew weary of it. When evils pressed sore, they were to look forward to a "far more exceeding and eternal weight of glory;" they were to receive them "as chastenings of the Lord."

3. The *conduct* of the Apostles, and of the Christians of the apostolic age, affords no obscure indication of their sentiments upon this point. They lived in a confirmed persuasion of the existence, and the happiness, of a future state. They experienced every extremity of injury and distress. To die, was gain. The change which death brought with it was, in their expectation, infinitely beneficial. Yet they never thought of hastening this change by an act of suicide; from which, what motive could have so universally withheld them, except an apprehension of some unlawfulness in the expedient.

But it has been said, if we deny to the individual a right over his own life, it seems impossible to reconcile with the law of nature that right which the state claims and exercises over the lives of its subjects, when it ordains or inflicts capital punishments. For this right can only be derived from the compact and virtual consent of the citizens which compose the state; and no one, by his consent, can transfer to another a right which he does not possess himself.


g. This whole reasoning sets out from one error, namely, that the state acquires its right over the life of the subject from the subject's own consent, as a part of what originally and personally belonged to himself, and which he has made over to his governors. The truth is, the state derives this right neither from the consent of the subject, nor through the medium of that consent; but immediately from the donation of the Deity. Finding that such a power in the sovereign is expedient, if not necessary, for the community, it is justly presumed to be the will of



God, that the sovereign should possess and exercise it. It is this *presumption* which constitutes the right: it is the same indeed which constitutes every other; and if there were the like reasons to authorize the presumption in the case of private persons, suicide would be as justifiable as war, or capital executions.

What is the true question concerning the lawfulness of suicide? *a.* Are we at liberty to commit suicide, when we become useless to mankind (*b.*) or when we leave none to lament our death? *c.* What would be the effect of an indiscriminate toleration of suicide? *d.* Is suicide expressly forbidden in Scripture? *e.* Shew that it is *virtually* condemned. *f.* 1—3. Reconcile the prohibition of suicide with the right which the state exercises over the lives of its citizens. *g.*

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## BOOK V.

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### DUTIES TO GOD.

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#### CHAP. I.

##### DIVISION OF THOSE DUTIES.

*a.* In one sense, every duty is a duty towards God, since it is his will which makes it a duty : But there are some of which God is the object, as well as the author ; these are peculiarly called *duties towards God*.

*b.* Our duty to God, as far as it is external, is divided into *worship* and *reverence* ; of which one consists in action, the other in forbearance. When we go to church on the Lord's day, from a sense of duty towards God, we perform an act of worship : when, from the same motive, we rest in a journey upon that day, we discharge a duty of reverence.

*c.* Divine worship is made up of adoration, thanksgiving, and prayer.

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Are all duties equally *duties towards God*? *a.* How is our duty to God, so far as it is external, divided? *b.* Of what parts is divine worship made up? *c.*

ous and obscure. Therefore, if the light of nature instruct us to hope for effect from prayer ; still more, if the Scriptures authorize these hopes by promises of acceptance ; it seems not a sufficient reason for calling in question the reality of such effects, that our observations of them are ambiguous : especially since it appears probable, that this very ambiguity is necessary to the happiness and safety of human life.

*e.* But some are offended with the mode of prayer, and with the subjects which are introduced into public worship, and private devotion. To pray for favours by name, is to dictate, it has been said, to Divine wisdom : to intercede for others, especially for nations and empires, is to presume that we possess such an interest with the Deity, as to be able to bend his counsels. But this, after all, is nothing more than the making one man the instrument of happiness and misery to another ; which is perfectly of a piece with the course and order that obtain in human affairs. Why may not our happiness be made in some cases to depend upon the intercession, as it certainly does in many upon the good offices, of our neighbours ?

Shew the duty of prayer from the *light of nature*. *a.* Answer the objection :—" If what we request be fit for us, we shall have it without praying ; if it be not fit for us, we cannot obtain it by praying." *b.* 1—3. What false assumptions does the objection involve ? *c.* Efficacy, it is said, is ascribed to prayer without the confirmation of experience. *d.* Answer the objection raised against the mode of, and the subjects introduced into, our devotions. *e.*

## CHAP. III.

OF THE DUTY AND EFFICACY OF PRAYER AS  
REPRESENTED IN SCRIPTURE.

a. The reflections drawn from the light of nature, rise many of them no higher than to negative arguments in favour of the propriety of addressing prayer to God. But this does not prove that prayers are actually efficacious: and in the want of that unequivocal testimony of experience, the light of nature leaves us to controverted probabilities. The Scriptures completely supply this defect of natural religion. They require prayer to God as a duty; and they contain positive assurance of its efficacy and acceptance. Hence we are encouraged to pray, but not to place such a dependence upon prayer as might relax other obligations.

The Scriptures not only affirm the propriety of prayer in general, but furnish precepts or examples which justify some topics and modes of prayer that have been thought exceptionable. Such are,

b. 1. Texts enjoining prayer in general: "Ask, and it shall be given you; seek, and ye shall find."—"I will, therefore, that men, *pray every where.*"—" *Pray without ceasing.*" Christ's reproof of the ostentation and prolixity of Pharisaical prayers, and his dictating a particular form of prayer, presupposes prayer to be an acceptable and availing service.

2. Examples of prayer for particular favours by name: "For this thing" (to wit some bodily infirmity, which St. Paul calls 'a thorn given him in the flesh') "I besought the Lord thrice that it might depart from me."—"Night and day praying exceedingly, that we *might see your face*, and perfect that which is lacking in your faith."

3. Directions to pray for national or public blessings: "*Pray for the peace of Jerusalem.*"—"I exhort, therefore, that first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; for kings, and for all that are in authority."

4. Examples of intercession, and exhortations to intercede, for others:—"Peter, therefore, was kept in prison, but prayer was made without ceasing of the Church unto God *for him.*"—"For God is my witness, that without ceasing *I make mention of you always in my prayers.*" "*Pray one for another, that ye may be healed.*"

5. Declarations and examples authorizing the repetition of unsuccessful prayer: "And he spake a parable unto them, to this end, that men ought always to pray, and not to faint."—"And he left them, and went away again, and prayed *the third time, saying the same words.*"

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What difference is there in the arguments drawn from the *light of nature*, and the *Scriptures*, respecting the duty and efficacy of prayer? *a.* The Scriptures furnish precepts or examples which justify some topics and modes of prayer that have been thought objectionable. Give instances—*b.* 1—5.

## CHAP. IV.

### OF PRIVATE PRAYER, FAMILY PRAYER, AND PUBLIC WORSHIP.

*a.* Concerning these three descriptions of devotion, it is to be observed, that each has its peculiar use; and, therefore, that the exercise of one species of worship does not dispense with the obligation of either of the other two.

I. *Private prayer* is recommended for the following advantages:—

b. 1. Private wants cannot always be made the subject of public prayer: but whatever reason there is for praying at all, there is the same for making the sore and grief of each man's own heart the business of his application to God.

2. Private prayer is generally more devout and earnest than the share we are capable of taking in joint acts of worship; because it affords opportunity for the recollection of those personal wants, by which the earnestness of prayer is chiefly excited.

3. Private prayer, in proportion as it is usually accompanied with more actual thought and reflection of the petitioner's own, has a greater tendency than other modes of devotion to fasten upon the mind the general impressions of religion. Solitude powerfully assists this effect.

4. Private prayer, thus recommended by advantages not attainable in any form of religious communion, receives a superior sanction from the authority and example of Christ: "When thou prayest, enter into thy closet: and when thou hast shut the door, pray to thy Father, which is in secret; and thy Father, which seeth in secret, shall reward thee openly." "And when he had sent the multitude away, he went up into a mountain *apart to pray*."

## II. *Family prayer*.

c. The peculiar use of family piety consists in its influence upon servants and children, who want sufficient seriousness to retire to the exercise of private devotion, and whose attention is not easily commanded in public worship. The example also and authority of a father and master act in this way with the greatest force; for his private prayers act not at all upon them as examples; and his attendance upon public worship they will readily impute to fashion, to a care to preserve appearances, and to many motives

3. Directions to pray for national or public things: "*Pray for the peace of Jerusalem.*" hort, therefore, that first of all, supplications, intercessions, and giving of thanks, be men; for kings, and for all that are;

4. Examples of intercession, and intercede, for others:—"Peter, in prison, but prayer was made the Church unto God for him witness, that without ceasing *always in my prayers.*" "ye may be healed."

5. Declarations and citation of unsuccessful requests. In all countries, the elements unto them, to this important parts of the pray, and not to are familiar to the lowest of the went away again the same words can be ascribed to no other cause than the same words establishment of assemblies for divine

What difference the light of and efficacy or example that b. 1-

The two reasons above stated bind all men to uphold public worship by their presence and example: for it is easily foreseen, how soon religious assemblies would fall into disuse, if that class of mankind who are above seeking instruction in them, were to withdraw their attendance; especially as all who please, are at liberty to rank themselves of this class. This argument meets the only serious apology that can be made for the absenting ourselves from public worship: viz. that we can pray as well at home. They, whose qualifications and habits best supply to themselves all the effect of public ordinances, will be the last to excuse their non-attendance, on the plea that they can pray equally well at home, when they advert to the general consequence of such an exemption, and consider the turn which is sure to be given to their absence from public worship. You stay from church to employ the sabbath in exercises and studies suited to its proper business; your next neighbour

v.]

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tions, imploring and receiving supplies from the same  
great source of power and bounty, having all one  
interest to secure, one Lord to serve, one judgment to  
look towards; it is hardly possible to behold mankind  
as strangers or enemies; or not to regard them as  
children of the same family, assembled before their  
common Parent; and with some portion of the ten-  
derness which belongs to the most endearing of our  
domestic relations.

2. Assemblies for the purpose of divine worship,  
force upon men's thoughts the natural equality of the  
human species, and thereby promote humility and  
condescension in the highest orders, and inspire the  
lowest with a sense of their rights. If ever the poor  
man holds up his head, it is at church; if ever the poor  
rich man views him with respect, it is there: and  
both will be the better, and the public profited, the



beside a sense of duty to God. Add to this, that the ardour of devotion is better supported through a small assembly, connected by the affections of domestic society, than in the presence of a mixed congregation.

### III. *Public worship.*

*d.* If the worship of God be a duty of religion, public worship is a necessary institution : for without it the greater part of mankind would exercise no religious worship at all.

These assemblies afford also, at the same time, opportunities for moral and religious instruction to those who otherwise would receive none. In all Protestant, and in most Christian countries, the elements of natural religion, and the important parts of the Evangelical history, are familiar to the lowest of the people. This can be ascribed to no other cause than the regular establishment of assemblies for divine worship.

The two reasons above stated bind all men to uphold public worship by their presence and example : *e.* for it is easily foreseen, how soon religious assemblies would fall into disuse, if that class of mankind who are above seeking instruction in them, were to withdraw their attendance ; especially as all who please, are at liberty to rank themselves of this class. This argument meets the only serious apology that can be made for the absenting ourselves from public worship : viz. that we can pray as well at home. They, whose qualifications and habits best supply to themselves all the effect of public ordinances, will be the last to excuse their non-attendance, on the plea that they can pray equally well at home, when they advert to the *general consequence* of such an exemption, and consider the *turn* which is sure to be given to their absence from public worship. You stay from church to employ the sabbath in exercises and studies suited to its proper business ; your next neighbour

stays from church to spend the seventh day less religiously than he passed any of the six, in a sleepy, stupid rest, or in drunkenness and debauchery, and yet thinks that he is only imitating you, because you both agree in not going to church. The same consideration should overrule many small scruples concerning forms and modes of administration of the public worship of our communion.

*f.* Beside the direct necessity of public worship, there are other valuable advantages growing out of the use of religious assemblies, without being designed in the institution, or thought of by the individuals who compose them.

1. Joining in prayer and praises to their common Creator, has a sensible tendency to unite mankind together, and to cherish and enlarge the generous affections.

Most men carry from public worship a better temper towards the rest of mankind, than they brought with them. Sprung from the same extraction, preparing together for the period of all worldly distinctions, imploring and receiving supplies from the same great source of power and bounty, having all one interest to secure, one Lord to serve, one judgment to look towards; it is hardly possible to behold mankind as strangers or enemies; or not to regard them as children of the same family, assembled before their common Parent; and with some portion of the tenderness which belongs to the most endearing of our domestic relations.

2. Assemblies for the purpose of divine worship, force upon men's thoughts the natural equality of the human species, and thereby promote humility and condescension in the highest orders, and inspire the lowest with a sense of their rights. If ever the poor man holds up his head, it is at church; if ever the rich man views him with respect, it is there: and both will be the better, and the public profited, the

oftener they meet in a situation, in which the consciousness of dignity in the one is tempered and mitigated, and the spirit of the other erected and confirmed.

*g.* The public worship of Christians is a duty of Divine appointment. "Where two or three," says Christ, "are gathered together in my name, there am I in the midst of them."\* Again, in the Epistle to the Hebrews, "Not forsaking the assembling of ourselves together, as the manner of some is."† Independently of these passages, a disciple of Christianity will hardly dispute a practice set on foot by the inspired preachers of his religion, coeval with its institution, and retained by every sect into which it has been since divided.

\* Matt. xviii. 20.

† Heb. x. 25.

Shew that the exercise of one species of worship does not supersede the obligation of the other kinds. *a.* What are the peculiar advantages of private prayer (*b.* 1—4;) of family prayer (*c.*;) and of public worship? *d.* *f.* 1—2. Is an individual excused from going to Church, under the pretence that he can pray at home? *e.* Public worship is a duty of divine appointment. *g.*

## CHAP. V.

### OF FORMS OF PRAYER IN PUBLIC WORSHIP.

*a.* Liturgies, being neither enjoined in Scripture, nor forbidden, rest solely on expediency; which expediency is to be gathered from a comparison of the advantages and disadvantages attending upon this mode of worship, with those which usually accompany extemporary prayer.

The advantages of a liturgy are these:—

*b.* 1. That it prevents absurd, extravagant, or impious addresses to God, which, in an order so numerous as

the sacerdotal, the folly and enthusiasm of many must always be in danger of producing, where the conduct of the public worship is entrusted to the discretion and abilities of the officiating minister.

2. That it prevents the *confusion* of extemporary prayer, in which the congregation being ignorant of each petition before they hear it, are confounded between their attention to the minister and to their own devotion. Devotion is necessarily suspended, until a petition be concluded; and before the petitioner can assent to it, or properly adopt it, that is, before he can address the same request to God for himself, and from himself, his attention is called off to keep pace with what succeeds. A congregation may be pleased and affected with the prayers and devotion of their minister, without joining in them. *Joint* prayer, which is the declared design of "coming together," is prayer in which all *join*; and not that which one alone in the congregation conceives and delivers, and of which the rest are merely hearers. This objection holds even where the minister's office is discharged with every possible advantage and accomplishment.

c. The inconveniences of a liturgy are :—

1. That forms of prayer composed in one age become unfit for another, by the unavoidable change of language, circumstances, and opinions. Occasional revisions, however, may obviate this.

2. That the perpetual repetition of the same form of words produces weariness in the congregation. But devotion will supply a remedy for this. Or they may both subsist in a considerable degree, and yet be outweighed by the objections which are inseparable from extemporary prayer.

d. The Lord's Prayer is a precedent, as well as a pattern, for forms of prayer. Our Lord appears, if not to have prescribed, at least to have authorized, the use of fixed forms, when he complied with the

request of the disciple, who said unto him, "Lord, teach us to pray, as John also taught his disciples."

The properties required in a liturgy are :—

*c.* I. That it be compendious.

It were no difficult task to contract our liturgies into half their present compass, and yet retain the substance of every petition and sentiment. But brevity may be studied too much. The composer of a liturgy must not expect that every part will be attended to by every hearer. If this were the case, a very short service would suffice. But the attention being apt to wander and return at intervals, he will admit a degree of repetition, and variety of phrase and form with little addition to the sense, that the attention, which has been slumbering during one part, may be excited and recalled by another; and the assembly kept together until it may reasonably be presumed, that even the most heedless and inadvertant have performed some act of devotion. On the other hand, the too great length of church services is more unfavourable to piety, than almost any fault of composition can be.

The length and repetitions in our liturgy, are not so much the fault of the compilers, as the effect of uniting into *one* service what was originally distributed into *threes*. With a few omissions, abridgments, or changes in the arrangement, such as the combination of separate services must necessarily require, even supposing each to have been faultless in itself, the Church of England would be in possession of a liturgy, in which those who assent to her doctrines would have little to blame, and the most dissatisfied must acknowledge many beauties. The style throughout is excellent; calm, without coldness; sedate, yet often affecting. The enumeration of human wants and sufferings in the Litany, is almost complete. A Christian can have few things to ask God, which he will not find there expressed, and for the most part with inimitable tenderness and simplicity.

II. That it express just conceptions of the Divine attributes.

The popular notions of God are formed, in a great measure, from the accounts which the people receive in their religious assemblies. An error here becomes the error of multitudes : and the purity or depravation of public manners will be affected, amongst other causes, by the truth or corruption of the public forms of worship.

III. That it recite such wants as the congregation are likely to feel, and no other.

That form of prayer has the most merit, which is best calculated to keep alive the devotion of the assembly. It were to be wished, therefore, that every part of a liturgy were personally applicable to every individual in the congregation ; and that nothing were introduced to damp the flame, which it is not easy to rekindle. Upon this principle, the *state prayers* should be fewer and shorter.

IV. That it contain as few controverted propositions as possible.

Why should every position, which a church maintains, be woven into her forms of public worship ? Some are offended, and some are excluded. This is an evil, at least to *them* : and what advantage or satisfaction can be derived to the *rest*, from the separation of their brethren, it is difficult to imagine ; unless it were a duty to publish our system of polemic divinity, under the name of making confession of our faith, every time we worship God ; or a sin to agree in religious exercises with those from whom we differ in some religious opinions. Indeed, where one man thinks it his duty constantly to worship a being, whom another cannot conscientiously worship at all, there seems to be no expedient left but a quiet secession. All other differences may be compromised by silence.

What reason is there either for receiving or rejecting a Liturgy? *a.* What are the advantages of a Liturgy? *b.* 1, 2. What are the inconveniencies of a Liturgy; and how may they be obviated? *c.* 1, 2. Have we any precedent for forms of prayer? *d.* What are the properties required in a Liturgy? *e.* I—IV.

## CHAP. VI.

### OF THE USE OF SABBATICAL INSTITUTIONS.

*a.* An assembly cannot be collected, unless the time be fixed and known beforehand: and if the design require that it be holden frequently, it is easiest that it should return at stated intervals. This produces a necessity of appropriating set seasons to the social offices of religion. It is also highly convenient that the *same* seasons be observed throughout the country; for if the recess from worldly occupation be not general, one man's business will perpetually interfere with another man's devotion.

But the celebration of divine service never occupies the whole day. What remains, therefore, of Sunday must be considered as a mere rest from ordinary occupations: and he who would defend the institution, as it is required by law to be observed, unless he can produce a command for a *Christian sabbath*, must point out the uses of it in that view. These are,

*b.* 1. That the relaxation which Sunday affords to the labouring classes, contributes greatly to the comfort of their lives, both as it refreshes them for the time, and as it relieves their six days' labour by the prospect of a day of rest always approaching; which could not be said of *casual* indulgences of leisure and rest. Besides; holydays, which come seldom and unexpected, are unprovided, when they do come, with any duty or employment; and the manner of spending them being regulated by no public decency or

established usage, they are commonly consumed in rude, if not in criminal pastimes, in stupid sloth, or brutish intemperance. Whoever considers how much sabbatical institutions conduce, in this respect, to the happiness and civilization of the labouring classes, will acknowledge the utility of this distinction, and will consequently perceive it to be every man's duty to uphold the observation of Sunday.

2. Sunday, by suspending many public diversions, and the ordinary rotation of employment, leaves to all ranks sufficient leisure, both for the external offices of Christianity, and for religious meditation and inquiry. And although many do not convert their leisure to this purpose, yet every one is allowed the opportunity.

3. It affords a respite to the toil of brutes. This was among the uses which the Divine founder of the *Jewish* sabbath expressly appointed a law of the institution.

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Whence arises the necessity of appropriating set seasons to the social offices of religion? *a.* Point out the public uses of Sabbatical institutions, independently of Divine worship. *b.* 1—3.

## CHAP. VII.

### OF THE SCRIPTURE ACCOUNT OF SABBATICAL INSTITUTIONS.

The subject, so far as it makes any part of Christian morality, is contained in two questions :

I. *Whether the command, by which the Jewish sabbath was instituted, extends to Christians ?*

*a.* In the second chapter of Genesis, the historian tells us, that " God rested on the seventh day from all his works ; and God *blessed* the seventh day and



*sanctified* it, because that on it he had rested from all his works which God created and made." After this, we hear no more of the sabbath, or seventh day, until the sojourning of the Jews in the wilderness, when, upon the complaint of the people for want of food, God provided for their relief by a miraculous supply of manna. In the account of this miraculous supply we find the following expressions: "This is that which the Lord hath said, *To-morrow is the rest of the holy sabbath unto the Lord*:—Eat that to day, for to-day is a sabbath unto the Lord:—See, for the Lord hath given you the sabbath, therefore he giveth you on the sixth day the bread of two days."—(Exod. xvi.)

Not long after this, the sabbath was established with great solemnity, in the fourth commandment.

Now the transaction in the wilderness appears to have been the first actual institution of the sabbath. For if it had been instituted at the creation; and if it had been observed from that time to the departure of the Jews out of Egypt, a period of about 2500 years; it appears unaccountable that no mention of it, nor even the obscurest allusion to it, should occur, either in the history of the world before the call of Abraham, or in that of the lives of the first three Jewish patriarchs. Nor is there, in the passage quoted in Exodus, any intimation that the sabbath, when appointed to be observed, was only the revival of an institution which had been neglected, forgotten, or suspended; nor is any such neglect imputed either to the inhabitants of the old world, or to any part of the family of Noah; nor is any permission recorded to dispense with the institution during the captivity of the Jews in Egypt, or on any other emergency.

The passage in the second chapter of Genesis is not inconsistent with this opinion; for as the seventh day was erected into a sabbath, on account of God's resting upon that day from the work of the creation, it was natural in the historian, when he had related

the history of the creation, and God's ceasing from it on the seventh day, to add, "And God *blessed* the seventh day, and *sanctified* it, because that on it he had rested from all his work which God created and made;" although the blessing and sanctification, *i.e.* the religious distinction and appropriation of that day, were not actually made till many ages afterwards. The words do not assert that God *then* "blessed" and "sanctified" the seventh day, but that he blessed and sanctified it *for that reason*. The order of connexion, and not of time, introduced the mention of the sabbath in the history of the subject which it was ordained to commemorate.

This interpretation is strongly supported by a passage in Ezekiel,\* where the sabbath is plainly spoken of as *given* (*i. e. first instituted*) in the wilderness. Nehemiah† also recounts the promulgation of the sabbatical law amongst the transactions in the wilderness.

b. If it be inquired what duties were appointed for the Jewish sabbath, and under what penalties and in what manner it was observed amongst the ancient Jews; we find that, by the fourth commandment, a strict cessation from work was enjoined, upon all who resided within the limits of the Jewish State, under pain of death :‡ double sacrifices in the temple :§ and *holy convocations* ;|| which mean, we presume, assemblies for the purpose of public worship or religious instruction, were directed to be holden on the sabbath day.

And accordingly we read, that the sabbath was observed amongst the Jews by a scrupulous abstinence from every thing which could be deemed labour. In the Maccabean wars, they suffered a thousand of their number to be slain, rather than do any thing in

\* Ch. xx. 10—12.

† Ch. ix. 12.

‡ Exod. xxxi. 15.

§ Numb. xxviii. 9, 10.

|| Levit. xxiii. 3.

their own defence on the sabbath-day. In the final siege of Jerusalem, they refused any operation on the sabbath-day, by which they might have interrupted the enemy, in filling up the trench. After the establishment of synagogues, it was the custom to assemble in them on the sabbath-day, for the purpose of hearing the law rehearsed and explained, and for the exercise, it is probable, of public devotion. The seventh day is *Saturday*; and agreeably to the Jewish way of computing the day, the sabbath held from six o'clock on Friday evening, to six o'clock on Saturday evening.

We now approach the main question, Whether the command by which the Jewish sabbath was instituted, extend to us?

c. If the command was delivered at the creation, it was addressed to the whole human species alike, and continues, unless repealed by some subsequent revelation, binding upon all who come to the knowledge of it. If it was first published in the wilderness, then it was directed to the Jewish people alone; and something farther will be necessary to shew, that it was designed for any other.

The latter opinion receives great confirmation from the following arguments:—

d. 1. The sabbath is described as a sign\* between God and the people of Israel; which must mean that the observance of it was peculiar to that people, and designed to be so.

2. The distinction of the sabbath is as much a positive ceremonial institution, as that of many other seasons which were appointed by the Levitical law to be kept holy—as the feast of Pentecost, the feast of Tabernacles; and in the twenty-third chapter of Exodus, the sabbath and these are recited together.

\* Exod. xxxi. 16, 17. Ezek. xx. 12.

3. If the command by which the sabbath was instituted be binding upon Christians, it must be binding as to the day, the duties, and the penalty; in none of which it is received.

4. The observance of the sabbath was not one of the articles enjoined by the Apostles, in the fifteenth chapter of the Acts, upon them "which, from among the Gentiles, were turned unto God."

5. St. Paul appears to have considered the sabbath as part of the Jewish ritual, and not obligatory upon Christians as such.\*

Only two objections can be opposed to these arguments:—

1. That the reason assigned in the fourth commandment for hallowing the seventh day, namely, "because God rested on the seventh day from the work of creation," pertains to all mankind. But although in Exodus the commandment is founded upon God's rest from the creation, in Deuteronomy the commandment is repeated with a reference to the deliverance of the Israelites from Egypt. The first reason was assigned to shew why the *seventh day* was sanctified rather than the sixth or eighth; the second, to shew why the same rest was indulged to *slaves*.

2. That the command which enjoins the observance of the sabbath is inserted in the Decalogue, of which all the precepts and prohibitions are of moral and universal obligation; and therefore it may reasonably be presumed that this is of the same. But the distinction between positive and natural duties, like other distinctions of modern ethics, was unknown to the simplicity of ancient language, and there are various passages in Scripture, in which duties of a political, or ceremonial, or positive nature, and confessedly of partial obligation, are enumerated along with others which are natural and universal.

\* Col. ii. 16, 17.

II. *Whether any new command was delivered by Christ ; or any other day substituted in the place of the Jewish Sabbath, by the authority or example of his Apostles.*

*f.* The practice of holding religious assemblies upon the first day of the week, was so early and universal in the Christian Church, that it appears to have originated from some precept of Christ, or of his Apostles. It was upon the *first* day of the week that the disciples were assembled, when Christ appeared to them for the first time after his resurrection. This however might, as to the day, have been accidental ; but in the 26th verse of the same chapter we read that "after eight days," that is, on the *first* day of the week *following*, "*again* the disciples were within;" which second meeting upon the same day of the week looks like a design to meet on that particular day. In the Acts (ch. xx.) we find the same custom in a Christian Church at a great distance from Jerusalem, viz. at Troas. The manner in which this is mentioned makes it appear very probable that the practice was now familiar and established. When St. John wrote the Revelations, the first day of the week had obtained the name of the *Lord's day* ; which name, and St. John's use of it, sufficiently denote the appropriation of this day to the service of religion, and that this appropriation was perfectly known to the Churches of Asia.

It is observable that a cessation from labour upon the first day of the week, beyond the time of attendance upon public worship, is not intimated in any passage of the New Testament.

*g.* But this is not to be wondered at when we remember that, in the primitive condition of Christianity, the observance of a new sabbath would have been useless, or inconvenient, or impracticable. During Christ's personal ministry, his religion was preached to the Jews alone. *They* already had a sabbath,

which they were obliged to keep. It was not, therefore, probable that Christ would enjoin another day of rest in conjunction with this. And when the new religion came forth into the Gentile world, converts to it were, for the most part, made from those classes who have not their time at their own disposal; and it was scarcely to be expected, that unbelieving masters would permit their slaves and labourers to rest from their work every seventh day: or that civil government would have submitted to the loss of a seventh part of the public industry, and that too in addition to their numerous festivals; at least, this would have been an encumbrance, which might have greatly retarded the reception of Christianity in the world.

*h.* The conclusion from the whole inquiry is this—the *assembling* upon the first day in the week for the service of religion, is a law of Christianity, of Divine appointment; the *resting* on that day is to Christians an ordinance of human institution; binding however upon the conscience of every individual of a country in which a weekly sabbath is established, for the sake of the beneficial purposes which the public and regular observance of it promotes.

When was the Sabbath first instituted? *a.* What duties were appointed for the Jewish sabbath, and under what penalties, and in what manner, was it observed among the Jews? *b.* Does the command, by which the Jewish sabbath was instituted, extend to us? *c.* What arguments strengthen the conclusion that the Jewish sabbath was directed to the Jews alone? *d.* 1—5. What objections are likely to be made to Paley's view of this subject, and how does he answer them? *e.* 1, 2. Was any new command delivered by Christ; or any other day substituted in the place of the Jewish sabbath? *f.* Why did not either our Saviour or his Apostles enjoin a cessation from labour on the Sabbath day? *g.* To what conclusion does Paley come from his inquiry respecting the Scripture account of Sabbatical institutions? *h.*

## CHAP. VIII.

BY WHAT ACTS AND OMISSIONS THE DUTY OF THE  
CHRISTIAN SABBATH IS VIOLATED.

The uses proposed by the institution are—

- a. 1. To facilitate attendance upon public worship.
2. To meliorate the condition of the laborious classes by regular and seasonable returns of rest.
3. By a general suspension of business and amusement, to invite and enable persons of every description to apply their time and thoughts to subjects appertaining to their salvation.

*Wherefore* the duty of the day is violated,

- b. 1. By all such employments as hinder our attendance upon public worship, or do not leave a sufficient part of the day for religious reflection; as the going of journeys, paying or receiving visits, writing letters, settling accounts; applying ourselves to studies, or reading books, which bear no relation to the business of religion.
2. By unnecessary encroachments on the rest and liberty which Sunday ought to bring to the inferior orders; as the employment of servants in preparations for the superfluous elegancies of our table, or dress.
3. By such recreations as are customarily forborne out of respect to the day; as hunting, shooting, fishing, &c.

If it be asked, wherein consists the difference between walking out with your staff or with your gun? between spending the evening at home, or in a tavern? between passing the Sunday afternoon at a game of cards, or in conversation not more edifying, nor always so inoffensive?—to these questions we return the following answer:

c. That the religious observance of Sunday, if it ought to be retained at all, must be uphelden by some public and visible distinctions; that every trespass upon that reserve which public decency has established, breaks down the fence by which the day is separated to the service of religion; that it is unsafe to trifle with scruples and habits that have a beneficial tendency, although founded merely in custom; that as to cards and dice it may be observed that few find any difficulty in refraining from *play* on Sunday, except those who sit down to it with the views of gamblers, and that *gaming* is seldom innocent.

What are the uses of the Sabbath? a. 1—3. How is the duty of the day violated? b. 1—3. Why may not an individual continue his usual amusements on the Sabbath? c.

## CHAP. IX.

### OF REVERENCING THE DEITY.

a. In many persons, a seriousness overspreads the imagination, whenever the idea of the Supreme Being is presented to their thoughts. This effect, which forms a considerable security against vice, is the consequence not so much of reflection, as of habit; and may be destroyed by that levity with which some speak of the Deity, of his attributes, providence, revelation and worship.

God hath been pleased (and probably for this reason) to forbid the vain mention of his name—"Thou shalt not take the name of the Lord thy God *b.* in vain." Now the mention is *vain*, when it is useless: and it is useless, when it is neither likely nor intended to serve any good purpose; or when it flows from the lips idle and unmeaning, or is applied, on occasions inconsistent with any consideration of re-



ligion and devotion, to express our anger, courage, or mirth; indeed when it is used at all, except in acts of religion, or in serious and seasonable discourse upon religious subjects. The prohibition of the third commandment is not only recognised by Christ, in his Sermon on the Mount; but extended beyond the *name* of God, to every thing associated with the idea. (Matt. v. 35.)

Mockery and ridicule, when exercised upon the Scriptures, or even the places, persons, and forms, set apart for the ministration of religion, fall within the law which forbids the profanation of God's name; especially as that law is extended by Christ's interpretation. They are moreover inconsistent with a religious frame of mind. Nothing but stupidity, or the most frivolous dissipation of thought, can make even the inconsiderate forget the supreme importance of everything which relates to the expectation of a future existence.

The knowledge of what is due to the solemnity of those interests, concerning which revelation professes to inform and direct us, may teach even those who are least inclined to respect the prejudices of mankind, to observe a decorum in the style and conduct of religious disquisitions, with the neglect of which many adversaries of Christianity are justly chargeable.


c. Serious arguments are fair on all sides. Christianity is but ill defended by refusing audience or toleration to the objections of unbelievers. But whilst we would have freedom of inquiry restrained by no laws but those of decency, we are entitled to demand, on behalf of a religion which holds forth assurances of immortality, that its credit be assailed by no other weapons than those of sober discussion and legitimate reasoning:—that Christianity be never made a topic of raillery, a theme for the exercise of wit or eloquence; that the cause be tried upon its merits:—that all applications to the passions or prejudices of the

reader be rejected from a question which involves in its determination the hopes, the virtue, and the repose, of millions:—that the controversy be managed with sincerity:—and that objections and difficulties be proposed, from an honest and serious desire to obtain satisfaction. If with these equitable conditions be compared the manner in which hostilities have been waged against the Christian religion, every man, who looks forward with anxiety to the destination of his being, will see much to blame. By *one unbeliever*, all the follies which have adhered, in a long course of dark and superstitious ages, to the popular creed, are assumed as so many doctrines of Christ and his Apostles, for the purpose of subverting the whole system by the absurdities which it is *thus* represented to contain. By *another*, the ignorance and vices, the dissensions and persecutions of the sacerdotal order have been displayed, principally with a view to insinuate, that the religion itself is nothing but a profitable fable, imposed upon the multitude by the frauds and influence of a crafty priesthood. And yet, after all, what do the most disgraceful pages of ecclesiastical history prove, but that the passions are not altered by distinctions of name, and that the characters of men are formed more by the temptations than the duties of their profession? A *third* delights in collecting accounts of wars, massacres, and insurrections, excited by religious zeal; as though the vices of Christians are parts of Christianity; intolerance and extirpation precepts of the Gospel. By a *fourth*, the variety of popular religions, the vicissitudes with which sects and tenets have flourished and decayed; the equal confidence with which we hear the doctrines of Christ or Confucious, the Law of Moses or of Mahomet, the Bible or the Koran, maintained or anathematized, according as we live on this or on that side of a river; are exhibited as so many arguments against the *truth* of the Christian religion.

But if the *matter* of these objections be reprehensible, still more shall we discover of disingenuousness in the *form* under which they are dispersed among the public. Infidelity is served up in every shape that is likely to allure or beguile the imagination; in a fable, a tale, a novel, a poem; in books of travels, of philosophy, of natural history; in a word, in any form rather than the right one, that of a professed, and regular disquisition; nay, more, obscenity itself is made the vehicle of infidelity. The doctrines of our religion have been sometimes impudently profaned by an unnatural conjunction with lascivious images. The fondness for ridicule is always universal; and ridicule to many minds is never so irresistible, as when seasoned with obscenity, and employed upon religion.

To that class of reasoners who can see *little* in Christianity even supposing it to be true, we address *d.* this reflection;—Had Christ delivered no other declaration than the following, “The hour is coming, in the which all that are in the grave shall hear his voice, and shall come forth: they that have done good unto the resurrection of life; and they that have done evil, unto the resurrection of damnation;”—he had pronounced a message of inestimable importance, and well worthy of that splendid apparatus of prophecy and miracles with which his mission was introduced and attested; a message in which the wisest of mankind would rejoice to find an answer to their doubts, and rest to their inquiries.

How is a reverence for the Deity produced, and how may it be destroyed? *a.* When is the mention of the name of God vain? *b.* What are we entitled to demand from objectors, on the part of a religion that holds forth to mankind assurances of immortality; and how, on the contrary, have they attacked it, both as to matter and manner? *c.* To a person who can see little in Christianity, even supposing it true, what reflection does Paley address? *d.*



## BOOK VI.

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### ELEMENTS OF POLITICAL KNOWLEDGE.

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#### CHAP. I.

##### OF THE ORIGIN OF CIVIL GOVERNMENT.

a. Government, at first, was either patriarchal or military: *that* of a parent over his family, or of a commander over his fellow-warriors.

I. Parental authority supplied the foundation of *civil government*. The condition of infancy prepares men for society, by combining individuals into small communities, and by placing them, from the beginning, under correction and control. A family contains the rudiments of an empire. Here we have the first stage in the progress of dominion—that of a parent over his young children.

Moreover, the constitution of families furnishes the first steps of the process by which empires have been reared. A parent would retain considerable authority after his children had formed families of their own. Their obedience would be considered as natural; and would scarcely, during the parent's life, be entirely withdrawn. Here we see the second stage—that of an ancestor presiding over his adult descendants.

## CHAP. II.

HOW SUBJECTION TO CIVIL GOVERNMENT IS  
MAINTAINED.

Although we should look in vain for any *single* reason which will account for the general submission of mankind to civil government; yet it may not be difficult to assign for every class and character in the community, considerations powerful enough to dissuade each from any attempts to resist established authority. Every man has his motive, though not the same.

There are three distinctions of character, into which the subjects of a nation may be divided :

a. I. *Those who obey from prejudice.* These are determined by an opinion of right in their governors; which opinion is founded upon *prescription*. Nor is it to be wondered at, that mankind should reverence authority founded in prescription, when they observe that it is prescription which confers the title to almost every thing else.

II. *Those who obey from reason*, i.e. from conscience as instructed by reasonings and conclusions of their own. These are determined by the consideration of the necessity of some government or other; the certain mischief of civil commotions; and the danger of resettling the government of their country better, or at all, if once subverted or disturbed.

III. *Those who obey from self-interest.* These are kept in order by want of leisure; by a succession of private cares, pleasures, and engagements; by contentment, or a sense of the ease and safety which they enjoy; or lastly, and principally, by fear, foreseeing that they would bring themselves by resistance into a

worse situation than their present, inasmuch as the strength of government, each discontented person reflects, is greater than his own, and he knows not that others would join him.

This account of the principles by which mankind are retained in their obedience to civil government, suggests the following cautions :

*b.* 1. Let civil governors learn to respect their subjects ; let them be admonished, that the *physical strength resides in the governed.*

2. That every innovation in the constitution, or, in other words, in the custom of governing, diminishes the stability of government.

3. *Government may be too secure.* The greatest tyrants have been those, whose titles were the most unquestioned.

4. As ignorance of union, and want of communication, appear amongst the principal preservatives of civil authority, it behoves every state to keep its subjects in this want and ignorance, not only by vigilance in guarding against confederacies and combinations, but by a timely care to prevent great collections of men of the same profession, as weavers, miners, sailors, from being assembled in the same vicinity. When the train is laid, a spark will produce the explosion.

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Into what distinctions of character may the subjects of a state be divided ; and from what motives does their submission to civil government arise ? *a.* I—III. What cautions are suggested by a consideration of the motives which retain mankind in their obedience to civil government ? *b.* 1—4.

## CHAP. III.

THE DUTY OF SUBMISSION TO CIVIL GOVERNMENT  
EXPLAINED.

The subject of the last chapter was, *the motives which actually produce civil obedience*. The subject of this chapter is, *the reasons which make civil obedience a duty*.

a. In order to prove civil obedience to be a moral duty, many political writers (at the head of whom we find the venerable name of Locke,) state a compact between the citizen and state, as the ground of the relation between them; which compact, binding the parties like private contracts, resolves the duty of submission to civil government into the universal obligation of fidelity in the performance of promises. This compact is twofold :

I. An *express* compact by the primitive founders of the state, settling the terms of their political union, and a future constitution of government.

II. A *tacit* or *implied* compact, by all succeeding members of the state, who, by accepting its protection, claiming its privileges, and acquiescing in its laws; but more especially by the purchase or inheritance of lands, consent to be bound by its laws.

This account of the subject, although specious, labours under the following objections :

b. 1. It is founded upon a supposition false in fact.

No such social compact ever was or could be made in any country, antecedent to the existence of civil government in that country. It is to call savages out of caves and deserts, to deliberate upon topics, which the experience, and studies, and refinements, of civil life, alone suggest.

Besides: the native subjects of modern states are not conscious of any stipulations with the sovereigns, of ever exercising an election whether they will be bound or not by the acts of the legislature. Still less is it possible to reconcile with any idea of stipulation, the practice, in which all European nations agree, of founding allegiance upon the circumstance of nativity, that is, of claiming and treating as subjects all those who are *born* within their dominions. In this instance certainly, the state does not presume a compact.

Again, when it is contended that the taking and holding possession of land amounts to an acknowledgment of the sovereign, and a virtual promise of allegiance to his laws, it is necessary to the validity of the argument to prove, that the inhabitants, who first composed the state, collectively possessed a right to the soil, a right to parcel it out to whom they pleased, and to annex to the donation what conditions they thought fit. How came they by this right? An agreement amongst themselves would not confer it: that could only adjust what already belonged to them.

2. It leads to conclusions unfavourable to the improvement, and to the peace, of human society.

i. As it is impossible to determine how many, or what were the *fundamentals* of the constitution, the suggesting of any such serves to embarrass the deliberations of the legislature, and affords a dangerous pretence for disputing the authority of the laws.

ii. The subject must abide by the established form of government, be it ever so absurd. He is bound by his bargain. It is not permitted to a man to retreat from his engagement, merely because he finds the performance disadvantageous. This law of contracts is universal.

iii. Every violation of the compact on the part of the governor, releases the subject from his allegiance, and dissolves the government. It is impossible to



avoid this consequence, if we found the duty of allegiance upon compact, and confess any analogy between the social compact and other contracts.

c. Wherefore, rejecting the intervention of a compact, as unfounded in its principle, and dangerous in its application, we assign for the only ground of the subject's obligation, *the will of God as collected from expediency*.

This may be established as follows:—"It is the will of God that the happiness of human life be promoted;"—"civil society conduces to that end;"—"civil societies cannot be upholden, unless, in each, the interest of the whole society be binding upon every part and member of it;"—"so long, therefore, as the interest of the whole society requires it, that is, so long as the established government cannot be resisted or changed without public inconveniency, it is the will of God (which *will* universally determines our duty) that the established government be obeyed,"—and no longer.

The following are some easy but important inferences, which result from the substitution of public *expediency* in the place of all implied compacts, promises, or conventions, whatsoever.

d. I. It may be as much a duty, at one time, to resist government, as it is, at another, to obey it; to wit, whenever more advantage will, in our opinion, accrue to the community from resistance, than mischief.

II. The lawfulness of resistance does not depend alone upon the grievance which is sustained or feared, but also upon the probable expense and event of the contest.

III. Irregularity in the first foundation of a state, or subsequent violence, fraud, or injustice, in getting possession of the supreme power, are not sufficient reasons for resistance, after the government is once peaceably settled.

IV. Not every invasion of the subject's rights, or liberty, or of the constitution ; not every stretch of prerogative, or neglect of duty, justifies resistance, unless these crimes draw after them public consequences of sufficient magnitude to outweigh the evils of civil disturbance.

V. No usage, law, or authority whatsoever need be continued, when it may be changed with advantage to the community.

VI. As all civil obligation is resolved into expediency, What, it may be asked, is the difference between the obligation of an Englishman and a Frenchman ? or why, since the obligation of both appears to be founded in the same reason, is a Frenchman bound in conscience to bear anything from his king, which an Englishman would not be bound to bear ? It is for these two reasons, *first*, because the same act of the prince is not the same grievance, where it is agreeable to the constitution, as where it infringes it ; *secondly*, because redress in the two cases is not equally attainable. Resistance cannot be attempted with equal hopes of success, where the people are reconciled to their sufferings, as where they are alarmed by innovation.

VII. "The interest of the whole society is binding upon every part of it." No rule, short of this, will provide for the stability of civil government, or for the peace and safety of social life.

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Upon what principle has Locke, with other moralists, attempted to prove the duty of submission to civil government ; and what is its two-fold division ? *a.* I. II. Shew that the assigning of a compact, as the ground of civil obedience, is founded upon a false supposition (*b.* 1.) and leads to dangerous conclusions. *b.* 2. i—iii. What is the *only* ground of the subject's obligation to civil obedience, and how is it proved ? *c.* Mention some important inferences which result from the substitution of expediency in the place of implied compacts. *d.* I—VII.

## CHAP. IV.

OF THE DUTY OF CIVIL OBEDIENCE, AS STATED IN THE  
CHRISTIAN SCRIPTURES.

a. As to the *extent* of our civil rights and obligations, *Christianity* has left us where she found us; the New Testament contains not one passage, which affords either argument or objection applicable to any conclusions upon the subject that are deduced from the law and religion of nature.

The only passages which have been seriously alleged in the controversy, are the two following:—

## ROMANS xiii. 1—7.

b. "Let every soul be subject unto the higher powers; for there is no power but of God: the powers that be, are ordained of God." &c.

## 1 PETER ii. 13—18.

"Submit yourselves to every ordinance of man, for the Lord's sake; whether it be to the king, as supreme; or unto governors, as unto them that are sent by him," &c.

c. These passages merely inculcate the *duty* of civil obedience. They do not describe the *extent* of it. They enforce the obligation by the proper sanctions of Christianity, without even considering the limits by which it is bounded. This is also the method in which the same Apostles enjoin the duty of servants to their masters, of children to their parents, of wives to their husbands:—"Servants, be subject to your masters."—"Children, obey your parents in all things."—"Wives, submit yourselves unto your own

husbands." The same absolute form of expression occurs in all these precepts ; the same silence as to any exceptions : yet no one doubts that the commands of masters, parents, and husbands, are often so unjust, and inconsistent with other obligations, that they both may and ought to be resisted. In all these cases we find the author more solicitous to impress the duty, than curious to enumerate exceptions. This consideration is alone sufficient to vindicate these passages from any explanation which may be put upon them, in favour of an unlimited passive obedience. But if we assume, with many commentators, that the first Christians privately cherished an opinion, that their conversion to Christianity entitled them to an exemption, as of *right*, from the authority of the Roman sovereign ; we are furnished with a still more apt and satisfactory interpretation of the Apostles' words. The two passages apply with great propriety to the refutation of this error.

d. St. Paul says, " Whosoever resisteth the power, resisteth the ordinance of God." This phrase, " the ordinance of God," is by many interpreted to authorize the most exalted and superstitious ideas of the regal character. But, in the first place, the expression is just as applicable to one kind of government, and to one kind of succession, as to another ;—to the elective magistrates of a pure republic, as to an absolute hereditary monarch. In the next place, it is not affirmed of the supreme magistrate exclusively, that *he* is the ordinance of God ; the title, whatever it imports, belongs to every inferior officer of the state as much as to the highest. The divine right of *kings* is, like the divine right of other magistrates,—the law of the land, or even actual and quiet possession of their office ;—a right ratified by the divine approbation, so long as obedience to their authority appears to be necessary or conducive to the common welfare.

What do the Scriptures assert respecting the *duty of civil obedience*? *a.* Quote two passages from the New Testament relative to this subject. *b.* Shew that they neither countenance an unlimited passive obedience, (*c.*) nor the divine right of kings. *d.*

## CHAP. V.

### OF CIVIL LIBERTY.

*a.* Civil liberty is the not being restrained by any law, but what conduces in a greater degree to the public welfare.

To do what we will, is natural liberty : to do what we will, consistently with the interest of the community to which we belong, is civil liberty. Natural liberty is the right of common upon a waste ; civil liberty is the safe, exclusive, unmolested enjoyment of a cultivated enclosure.

*b.* This definition of civil liberty imports that the laws of a free people impose no restraints upon the private will of the subject, which do not conduce in a *greater degree* to the public happiness ; by which it is intimated,

1. That restraint is an evil. 2. That this evil ought to be overbalanced by some public advantage. 3. That the proof of this advantage lies upon the legislature. 4. That a law being found to produce no sensible good effects, is a sufficient reason for repealing it, as adverse and injurious to the rights of a free citizen.

Hence we may apprehend the distinction between *c. personal* and *civil* liberty. A citizen of the freest republic in the world may be imprisoned for his crimes ; and though his personal freedom be restrained by

bolts and fetters, so long as his confinement is the effect of a beneficial public law, his civil liberty is not invaded. If this instance appear dubious, the following will be plainer. A passenger from the Levant, who, upon his return to England, should be conveyed to a lazaretto by an order of quarantine, with whatever impatience he might desire his enlargement, and though he saw a guard placed at the door to oppose his escape, or even ready to destroy his life if he attempted it, would hardly accuse government of encroaching upon his civil freedom. The manifest expediency of the measure justifies and reconciles the most odious confinement, with the perfect possession, and the loftiest notions, of civil liberty. And if this be true of the coercion of a prison, it cannot be disputed of those more moderate constraints which government imposes upon the will of the individual.

*d.* Another idea places civil liberty in *security*; making it to consist not merely in an exemption from useless and noxious laws, but in being free from the *danger* of having such hereafter imposed.

The definitions which have been framed of civil liberty, are most of them adapted to this idea.

*e.* Thus one political writer makes the essence of the subject's liberty to consist in his being governed by no laws but those to which he has consented; another is satisfied with an indirect and virtual consent; another places civil liberty in the separation of the legislative and executive offices of government; another, in the being governed by *law*, that is, by known, preconstituted, inflexible rules of action and adjudication; a fifth, in the exclusive right of the people to tax themselves by their representatives; a sixth, in the freedom and purity of elections of representatives; a seventh, in the control which the democratic party of the constitution possesses over the military establishment. Concerning which accounts of civil liberty, it may be observed, that they

all labour under one inaccuracy, viz., that they describe not so much liberty itself, as the safeguards and preservatives of liberty.

Define *civil liberty*, and distinguish between natural and civil liberty. *a.* What does Paley's definition of civil liberty import, and what conclusions follow from it? *b.* 1—4. Shew that a man's personal liberty may be taken away, without infringing upon his civil liberty. *c.* What is meant when it is said that civil liberty consists in security? *d.* Mention some other definitions of civil liberty, and shew the inaccuracy of them. *e.*

## CHAP. VI.

### OF DIFFERENT FORMS OF GOVERNMENT.

Political writers enumerate three principal forms of government, by some combination or intermixture of which all actual governments are composed:—

*a.* I. Despotism, or absolute *monarchy*, where the legislature is in a single person.

The advantages of *monarchy* are, unity of counsel, activity, secrecy, despatch; military strength and energy; the exclusion of popular and aristocratical contentions; the preventing, by a known rule of succession, of all competition for the supreme power; and thereby repressing the hopes, intrigues, and dangerous ambition, of aspiring citizens.

The mischiefs, or dangers are, tyranny, expense, military domination: unnecessary wars; risk of the character of the reigning prince; ignorance, in the governors, of the interest and accommodation of the people; want of uniformity in the rules of government, and, proceeding from thence, insecurity of person and property.

II. An *aristocracy*, where the legislature is in a select assembly, the members of which succeed to places in it by election, inheritance, property, or some personal right, or qualification.

The advantage of an *aristocracy* consists in the wisdom which may be expected from experience and education.

The mischiefs are, dissensions in the ruling orders of the state, from the want of a common superior; oppression of the lower orders by the privileges of the higher, and by laws partial to the separate interest of the law-makers.

III. A *republic*, or democracy, where the people at large, either collectively or by representation, constitute the legislature.

The advantages of a *republic* are, exemption from needless restrictions; equal laws; regulations adapted to the wants and circumstances of the people: frugality, averseness to war; the opportunities which democratic assemblies afford to men of every description, of producing their abilities and counsels to public observation.

The evils of a *republic* are, dissension, tumults, faction; the attempts of powerful citizens to possess themselves of the empire; the confusion, rage, and clamour, which are the inevitable consequences of assembling multitudes; delay and disclosure of public counsels; and the imbecility of measures retarded by the necessity of obtaining the consent of numbers.

b. A *mixed* government is composed of two or more of the simple forms of government:—and in whatever proportion each form enters into the constitution, in the same proportion may both the advantages and evils of that form be expected.

An *hereditary* is universally to be preferred to an *c. elective monarchy*. The confession of every writer on the subject of civil government, the experience of ages, the example of Poland, and of the papal do-



of the several parts of the legislative body; the construction, office, and jurisdiction, of courts of justice. The constitution is one principal division of the code of public laws. Therefore the terms *constitutional* and *unconstitutional*, mean legal and *b.* illegal. In England the system of public jurisprudence is made up of acts of parliament, of decisions of courts of law, and of immemorial usages; consequently these are the principles of which the English constitution itself consists.

*c.* Most of those who treat of the British constitution, consider it as a scheme of government formally planned and set up by our ancestors, in some certain era of our national history. Something of this sort is secretly referred to, when we speak of the "principles of the constitution," of restoring the constitution to its "original purity," or "primitive model." Now this is an erroneous conception of the subject. No such plan was ever formed, consequently no such first principles, original model, or standard, exist: *i.e.* there never was a point of time in our history, when the government of England was to be set up anew; or when a constitution prepared and digested, was by common consent received and established. The constitution of England, like that of most countries of Europe, has grown out of occasion and emergency; from the fluctuating policy of different ages; from the contentions of different orders and parties of men in the community.

*d.* *The Government of England*, which has been sometimes called a mixed government, sometimes a limited monarchy, is formed by a combination of the three regular species of government: the monarchy residing in the King; the aristocracy in the House of Lords; and the republic, being represented by the House of Commons. The perfection intended by such a scheme of government is, to unite the advantages of the several simple forms, and to exclude the

inconveniencies. To what degree this purpose is attained or attainable in the British constitution, we are enabled to judge, by a separate recollection of these advantages and inconveniences, and a distinct application of each to the political condition of this country.

We will present our remarks upon the subject in a brief account of the expedients by which the British constitution provides,

I. For the interest of its subjects.

e. The contrivances for this purpose are the following :

Every citizen is capable of becoming a member of the senate ; and every senator possesses the right of proposing to the legislature whatever law he pleases. Every district enjoys the privilege of choosing representatives ; so that the meanest subject has some one to bring forward his complaints and requests to public attention.

By annexing the right of voting for members to different qualifications in different places, each order of men in the community becomes virtually represented ; that is, men of all orders and professions obtain seats in parliament. And the elections are so connected with the influence of landed property, as to afford a certainty that men of great estates, and also men the most eminent in their respective professions, are the most likely, by their riches, or the weight of their stations, to prevail in these competitions.

The representatives are so intermixed with the constituents, that they cannot impose any burden upon the subject, in which they do not share themselves. And they are so far dependent upon them that they cannot more effectually recommend themselves to eminence and advancement than by contriving and patronizing laws of public utility ; so that wise counsels and beneficial regulations cannot fail of receiving the approbation of a majority.

i. The admission of a small number of ecclesiastics into the House of Lords, is but an equitable compensation to the clergy for the exclusion of their order from the House of Commons. They are a set of men considerable by their number and property, as well as by their influence, and the duties of their station; yet, whilst every other profession has representatives, who, being conversant in the same occupation, are able to state the rights and interests of the class to which they belong, the clergy alone are deprived of this advantage; which hardship is made up to them by introducing the prelacy into parliament.

What is meant by the constitution of a country, and what is the import of the terms *constitutional* and *unconstitutional*? a. What are the principles of the English constitution? b. In what light is it usual to consider the British constitution? Shew that this conception is erroneous, and give the correct view of it. c. How is the *government of England* formed? d. Mention the expedients by which the British constitution provides for the interests of its subjects (e) and for its own preservation. g. 1, 2. To what articles do the dangers to be apprehended from regal government relate, and how does the constitution provide against them? f. 1, 2. State the proper use and design of the House of Lords. h. 1—3. How may we defend the admission of the Bishops into the House of Lords? i.

## CHAP. VIII.

### OF THE ADMINISTRATION OF JUSTICE.

The principal securities for the impartial distribution of justice are as follows:—

a. 1. That the legislative and judicial characters be kept separate; that is, that the laws be made by one set of men, and administered by another. When

these offices are united in the same person or assembly, particular laws are made for particular cases, springing oftentimes from partial motives, and directed to private ends.

2. The independency of the judges. For as protection against every illegal attack upon the rights of the subject by the servants of the crown is to be sought for from these tribunals, the judges become not unfrequently the arbitrators between the king and the people, on which account they ought to be independent of either.

3. That the number of the judges be small. For judges, when they are numerous, *divide* the shame of an unjust determination; and shelter themselves under one another's example. Each man thinks his own character hid in the crowd.

4. That the proceedings of courts of justice be carried on in public. The most corrupt judge will fear to indulge his dishonest wishes before a promiscuous concourse of bystanders, and in the audience of the whole profession of the law. He must encounter what few can support, the censure of his equals and companions, together with the indignation and reproaches of his country.

5. There should be two or three courts of concurrent jurisdiction. By this means a tribunal which may happen to be occupied by ignorant or suspected judges, will be deserted for others that possess more of the confidence of the nation.

6. There should be one supreme tribunal, by whose final sentence all others are bound and concluded. This is necessary for two purposes:—to preserve an uniformity in the decisions of inferior courts, and to maintain to each the proper limits of its jurisdiction.

b. There are two kinds of judicature: the one where the office of the judge is permanent in the same person, and consequently, where he is known long

before the trial; the other, where the judge is determined by lot at the time of the trial, and for that turn only. From the former may be expected those qualifications which are preferred and sought for in the choice of judges, and that knowledge and readiness which result from experience in the office. But then, as the judge is known beforehand, he is accessible to the parties; there exists, therefore, a possibility of secret management and undue practices. The advantage attending the second kind of judicature is indifference; the defect, the want of that legal science which produces uniformity and justice in legal *c.* decisions. The construction of English courts, in which causes are tried by a jury, with the assistance of a judge, combines the two species with peculiar success. The judge imparts to the jury the benefit of his erudition and experience; the jury, by their disinterestedness, check any corrupt partialities which previous application may have produced in the judge.

*d.* Nevertheless, the trial by jury is sometimes inadequate to the administration of equal justice. This takes place chiefly in disputes in which some popular passion or prejudice intervenes: as where a particular order of men advance claims upon the rest of the community, which is the case of the clergy contending for tithes; or when an order of men are obnoxious by their profession, as are officers of the revenue, &c.; or where one of the parties has an interest in common with the general interest of the jurors, and that of the other is opposed to it, as in contests between landlords and tenants, &c.; or, lastly, where the minds of men are inflamed by political dissensions, or religious hatred.

Next to the constitution of courts of justice, we are led to consider, how far, and for what reasons, it is expedient to adhere to former determinations.

e. The general security of private rights, and of civil life, requires that such precedents should not be overthrown, without a detection of manifest error. And this for two reasons: first, that the discretion of judges may be bound down by positive rules; and, secondly, that the subject, upon every occasion in which his legal interest is concerned, may know beforehand how to act, and what to expect. Nothing quells a spirit of litigation, like despair of success: therefore, nothing so completely puts an end to law-suits, as a rigid adherence to known rules of adjudication.

From an adherence, however, to precedents, two evil consequences arise:—

f. 1. The hardship of particular determinations. But uniformity is of more importance than equity, in proportion as a general uncertainty would be a greater evil than particular injustice.

2. The intricacy of the law as a science. But this is attended with no greater inconveniency than that of erecting the practice of the law into a separate profession.

It has frequently been asked—Why, since the maxims of natural justice are few and evident, do there arise so many doubts and controversies in their application? If a system of morality, containing both the precepts of revelation and the deductions of reason, may be comprised within the compass of one moderate volume; what need of those tomes of statutes and reports, which require the employment of a long life even to peruse?

To account for this it should be observed,

g. 1. That treatises of morality always suppose facts to be ascertained and the intention of the parties to be known: whereas these facts and intentions still remain to exercise the inquiry of courts of justice.

2. There exist a multitude of cases, in which the law of nature prescribes nothing, except that some

certain rule be adhered to. In all such cases, the law of nature sends us to the law of the land. She directs that either some fixed rule be introduced by an act of the legislature, or that the rule which accident, or custom, or common consent, hath already established, be steadily maintained.

3. In contracts which involve a great number of conditions, the design and expectation of the parties was, that both sides should be guided by the custom of the country; the difficulty of ascertaining these customs, affords ample room for doubt and contest.

4. The private rights of persons frequently depend upon what has been transacted in very remote times. Doubts will perpetually occur concerning the conditions of these transactions, to which the law of nature affords no solution.

5. The extent of an injury, is often very dubious, and such as cannot be ascertained by any rules which the law of nature supplies. Here then recourse must be had to courts of law.

6. When controversies arise in the interpretation of written laws, they for the most part arise upon some contingency which the composer of the law did not foresee; and courts of justice are embarrassed by these difficulties.

7. The deliberations of courts upon every *new* question, are encumbered with additional difficulties, in consequence of the authority which the judgment of the court possesses, as a precedent to future judicatures. This makes it necessary for a judge to look beyond the case before him: to reflect whether the reasoning, which he adopts, can be applied with safety to all cases which admit of a comparison with the present.

8. A principal source of disputation is, "the competition of opposite analogies." When a point of law has been once adjudged, neither that question nor any which in all its circumstances corresponds with *that*,

can be brought a second time into dispute: but questions arise, which resemble this only in part, and which may seem to bear an equal affinity to other adjudged cases. It is by the urging of the different analogies that the contention of the bar is carried on: and it is in the reconciliation of them with one another; in the discerning of such distinctions; and in the framing of such a determination as may give up the weaker analogy to the stronger; that the sagacity and wisdom of the court are seen and exercised.

Enumerate the principal securities for the impartial distribution of justice. *a.* 1—6. How many kinds of judicature are there? Describe them (*b.*) and shew that the construction of English courts of law combines the two systems with peculiar success. *c.* In what cases is the system of trial by jury inadequate to the administration of equal justice? *d.* How far, and for what reasons, is it expedient that judges should adhere to former determinations? *e.* What evil consequences arise from a rigid adherence to precedents? *f.* 1, 2. How does it happen, that, since the maxims of natural justice are so few and evident, there arise so many doubts and controversies in their application? *g.* 1—8.

## CHAP. IX.

### OF CRIMES AND PUNISHMENTS.

*a.* The proper end of human punishment is not the satisfaction of justice, *i. e.* the retribution of so much pain for so much guilt; but the prevention of crimes. The fear lest the escape of the criminal should encourage him, or others by his example, to commit the same, or different crimes, is the sole consideration which authorizes the infliction of punishment by human laws. Now that which is the cause and end of punishment, ought to regulate the measure of its



severity. But this cause appears to be founded, not in the guilt of the offender, but in the necessity of preventing the repetition of the offence; and hence results the reason, that crimes are not by any government punished in proportion to their guilt, but in proportion to the difficulty and the necessity of preventing them. Thus breaches of trust are punished with lenity, because a due circumspection in the choice of persons whom they trust will commonly guard men from injuries of this description; but where no practical vigilance could watch the offender, as in the case of theft committed by a servant in the shop or dwelling-house of his master, the sentence of the law is more severe. It is upon the same principle, that the facility with which any species of crimes is perpetrated, has been generally deemed a reason for aggravating the punishment.

From the justice of God, we are taught to look for a gradation of punishment exactly proportioned to the guilt of the offender: it is natural therefore to demand why a different measure of punishment should be expected from God, and observed by man.

b. The solution of this difficulty must be sought for in those attributes of the Divine nature, which distinguish the dispensations of Supreme Wisdom from the proceedings of human judicature. A Being whose knowledge penetrates every concealment, and in whose hands punishment is sure, may conduct the moral government of his creation, in the best and wisest manner, by pronouncing a law that every crime shall finally receive a punishment proportioned to its guilt. But when the care of the public safety is entrusted to men, from whose utmost vigilance the greatest offenders often lie hid; a different necessity, a new rule of proceeding, results from the very imperfection of their faculties. In their hands, the uncertainty of punishment must be compensated by the severity.

c. There are two methods of administering penal justice.

1. By assigning capital punishment to few offences, and inflicting it invariably.

2. By assigning capital punishment to many kinds of offences, and inflicting it seldom.

d The latter method has been long adopted in this country. And the preference of this to the former method is founded in the consideration, that the selection of proper objects for capital punishment principally depends upon circumstances which it is impossible to enumerate beforehand; or to ascertain however with that exactness which is requisite in legal descriptions.

e. Aggravations, which ought to guide the magistrate in the selection of objects of condign punishment, are principally these three,—repetition, cruelty, combination. The first two add to every reason upon which the justice or the necessity of rigorous measures can be founded; and with respect to the last, when thieves and robbers are once collected into gangs, their violence becomes more formidable, and the difficulty of defending the public against their depredations much greater, than in the case of solitary adventurers.

f. In estimating the comparative malignancy of crimes of violence, regard is to be had, not only to the intended mischief of the crime, but to the fright occasioned by the attack, to the general alarm excited by it in others, and to the consequences which may attend future attempts of the same kind.

The frequency of capital executions in this country, owes its necessity to three causes:—

g. 1. *Much liberty*, The liberties of a free people permit not those precautions and restraints, that inspection and control, which are exercised with success in arbitrary governments.

2. *Great cities.* These multiply crimes, by presenting easier opportunities, and more incentives to libertinism, which in low life is commonly the introductory stage to other enormities; by collecting thieves and robbers into the same neighbourhood; but principally by the refuge they afford to villany, in the means of concealment, and of subsisting in secrecy, which crowded towns supply to men of every description.

3. *The want of a punishment short of death, sufficiently terrible to keep offenders in awe.* Transportation, which is the sentence second in the order of severity, answers the purpose of example very imperfectly; not only because exile is in reality a slight punishment to those who have neither property, friends, nor reputation, nor regular means of subsistence, at home; but because the punishment, whatever it be, is unobserved, and unknown.

4. *The certainty of punishment is of more consequence than the severity.* Criminals do not so much flatter themselves with the lenity of the sentence, as with the hope of escaping. For which reason, a vigilant magistracy, an accurate police, together with due rewards for the apprehension of malefactors, and an undeviating impartiality in carrying the laws into execution, contribute more to the suppression of crimes than any violent exacerbations of punishment.

There are two popular maxims, which seem to have a considerable influence in producing injudicious acquittals.

1. *That circumstantial evidences falls short of positive proof.* This assertion is not strictly true. A concurrence of well authenticated circumstances compose a stronger ground of assurance than positive testimony, unconfirmed by circumstances, usually affords. Circumstances cannot lie. What is called positive proof may be founded in the mistake or perjury of a single witness. Whereas, to impose upon

a court a chain of *circumstantial* evidence in support of a fabricated accusation, requires such a number of false witnesses, such an union of skill and wickedness as seldom meet together.

2. *That it is better that ten guilty persons escape, than that one innocent man should suffer.* If by saying it is *better*, he meant that it is more for the public advantage, the proposition cannot be maintained. Not that the life or safety of the meanest subject ought, in any case, to be knowingly sacrificed, but that courts of justice should not be deterred by *every* suspicion of danger, or by the mere possibility of confounding the innocent with the guilty from adopting certain rules of adjudication.

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What is the proper end of human punishment, and what ought to regulate the measure of its severity? *a.* Why should a different measure of punishment be expected from God, and observed by man? *b.* What methods are there of administering penal justice? *c.* 1, 2. Which has been adopted in this country, and whence does its preference arise? *d.* What aggravations ought to guide magistrates in the selection of objects of condign punishment? *e.* To what must regard be had in estimating the comparative malignancy of crimes of violence? *f.* To what causes is the necessity of capital executions in this country owing? *g.* 1-3. The *certainty* of punishment is of more consequence than the *severity*. *h.* What two popular maxims seem to have a considerable influence in producing injudicious acquittals? What are Paley's observations upon them? *i.* 1, 2.

## CHAP. X.

### OF RELIGIOUS ESTABLISHMENTS AND OF TOLERATION.

*a.* "A Religious establishment is no part of Christianity: it is only the means of inculcating it." It cannot be proved that any form of church-government was laid down in the Christian, as it had been in the

Jewish Scribes, with a view of fixing a constitution for succeeding ages. No command for this purpose was delivered by Christ. This reserve is accounted for by two considerations:—

1. That no constitution could be framed, which would suit with the condition of Christianity in its primitive state, and with that which it was to assume when it was advanced into a national religion.

2. That a particular designation of office or authority amongst the ministers of the new religion, might have so interfered with the arrangements of civil policy, as to have formed a considerable obstacle to the progress of the religion itself.

The authority therefore of a church-establishment is founded in its utility.

The notion of a religious establishment comprehends three things:—

*b. 1. A clergy excluded from other professions to attend upon the offices of religion.*

Christianity is an historical religion, founded in facts which are related to have passed, upon discourses which were holden, and letters which were written, in a remote age and distant country of the world, as well as under a state of life and manners, and during the prevalency of opinions, customs, and institutions, very unlike any which are found among mankind at present. Moreover, having been first published in Judea, and being built upon the more ancient religion of the Jews, it is intimately connected with the sacred writings, with the history and polity of that singular people: to which must be added, that the records of both revelations are preserved in languages which have long ceased to be spoken in any part of the world. Books coming down from times so remote, cannot be understood without study and preparation. The languages must be learned. The various writings which these volumes contain must be carefully compared with one another, and with themselves. What re-

mains of contemporary authors, or of authors connected with the age, the country, or the subject, of our scriptures, must be perused and consulted, in order to interpret doubtful forms of speech, and to explain allusions which refer to objects or usages that no longer exist. And lastly, to establish the genuineness and integrity of the canonical Scriptures themselves, a series of testimony, recognizing the notoriety of these books, must be deduced from times near to those of their first publication, down the succession of ages through which they have been transmitted to us. This will demand a degree of leisure, and a kind of education, inconsistent with the exercise of any other profession. But besides this, the ordinary offices of public teaching, and of conducting public worship, call for qualifications not usually to be met with amidst the employments of civil life.

*II. A legal provision for the maintenance of the clergy.*

Now this must either depend upon the voluntary contributions of their hearers, or arise from revenues assigned by authority of law. To the scheme of voluntary contribution there exist two objections:

1. Few would ultimately contribute anything at all. It is a bad constitution, which presents temptations of interest in opposition to the duties of religion; or which makes the offices of religion expensive to those who attend upon them; or which allows pretences of conscience to be an excuse for not sharing in a public burthen. If, by declining to frequent religious assemblies, men could save their money, at the same time that they indulge their indolence; or if, by dissenting from the national religion, they could be excused from contributing to the support of the ministers of religion; it is to be feared that this liberty might finally operate to the decay of virtue, and an irrecoverable forgetfulness of all religion in the country.

parishes of a commodious extent. If the parishes be small, and ministers of every denomination be stationed in each, the expense of their maintenance will become too burthensome a charge for the country to support. If, to reduce the expense, the districts be enlarged, the place of assembling will oftentimes be too far removed from the residence of the persons who ought to resort to it. Again: the making the pecuniary success of the different teachers of religion to depend on the number and wealth of their respective followers, would generate strifes and indecent jealousies amongst them; as well as produce a polemical and proselyting spirit, founded in or mixed with views of private gain, which would both deprave the principles of the clergy, and distract the country with endless contention.

Next, we may inquire concerning the right of the civil magistrate to interfere in matters of religion. *d.* They who suppose civil government to be founded in some stipulation with its subjects, are at liberty to contend that the concerns of religion were excepted out of the social compact. We, however, who deduce the authority of civil government from the will of God, and collect that will from public expediency alone, hold that the jurisdiction of the magistrate is limited by no consideration but that of general utility: in plainer terms, that whatever be the subject to be regulated, it is lawful for him to interfere whenever his interference, *in its general tendency*, appears to be conducive to the common interest. It has been said, that religion, pertaining to a life to come, lies beyond the province of civil government. But we reply, that when the laws interfere even in religion, they interfere only with temporals. Religious liberty is, like *c.* civil liberty, not an immunity from restraint, but the being restrained by no law, but what in a greater degree conduces to the public welfare.

We may now enquire, What is the degree and the sort of interference of secular laws in matters of religion, which are likely to be beneficial to the public happiness.

*f.* There are two maxims which will regulate our conclusions upon this head.

1. That any form of Christianity is better than no religion at all. This position will hardly be disputed, when we reflect that every modification of Christianity holds out the happiness and misery of another life, as depending chiefly upon the practice of virtue or of vice in this. Hence we infer, that when the state enables its subjects to learn some form of Christianity, by distributing teachers of a religious system throughout the country, and by providing for the maintenance of those teachers at the public expense; that is, in fewer terms, when the *laws* establish a national religion, they exercise a power and an interference, which are likely, in their general tendency, to promote the interest of mankind.

2. That of different systems of faith, that is the best which is the truest.

This proposition is founded in the consideration, that the principal importance of religion consists in its influence upon the fate and condition of a future existence. This influence belongs only to that religion which comes from God.

*g.* The case of dissenters must be determined by the principles just now stated. *Toleration* is of two kinds:—

1. Partial toleration, which is the allowing to dissenters the unmolested profession and exercise of their religion, but with an exclusion from offices of trust and emolument in the state. The expediency of toleration is founded primarily in its conduciveness to truth, and in the superior value of truth to that of any other quality which a religion can possess. This



species, and the capacity of the soil. And the requisites necessary to the success of population, are,

b. I. The confining the intercourse of the sexes to the marriage-union. It is only in the marriage-union that this intercourse is sufficiently prolific.

II. The ease and certainty with which a provision can be procured for that mode of subsistence to which each class of the community is accustomed. It is not enough that men's *natural* wants be supplied; habitual superfluities become actual wants.

Now there are three causes which evidently regulate this point:

c. 1. The mode of living which actually obtains in a country. In China, where the inhabitants subsist chiefly upon fish, the population is excessive. This arises simply from hence, that the species of food to which custom has reconciled the inhabitants, is that which, of all others, is procured in the greatest abundance, with the most ease, and stands in need of the least preparation.

Under this head may be understood the true evil and proper danger of *luxury*.

d. *Luxury*, as it supplies employment and promotes industry, assists population. But when, by introducing more superfluities into general reception, luxury has rendered the usual accommodations of life more expensive, the difficulty of maintaining a family becomes greater; and the effect is, that marriages grow less frequent.

2. The quantity of provision suited to that mode. Now, if we measure the quantity of provision by the number of human bodies it will support, this quantity will depend greatly upon the *kind*. Thus a piece of ground capable of supplying animal food sufficient for the subsistence of ten persons, would sustain, at least, the double of that number with grain, roots, and milk.

3. The *distribution* of that provision. It is in vain that provisions abound in the country, unless we be able to obtain a share of them. Now there is but one principle of distribution that can ever become universal, namely, the principle of "exchange." Moreover, the only equivalents that can be offered in exchange for provisions are *power* and *labour*. All property is *power*. But power which results from civil conventions (and of this kind is what we call a man's fortune or estate) is necessarily confined to a few; whereas the capacity of *labour* is every man's natural possession. Employment therefore must, in every country, be the medium of distribution, and the source of supply to individuals.

e. We see, therefore, the connexion between population and *employment*. Employment affects population "directly," as it affords the only medium of distribution: and "indirectly," as it augments the stock itself of provisions by furnishing purchasers. And upon this basis is founded the public benefit of *trade*, that is to say, its subserviency to population, in which its only real utility consists.

But how, it may be asked, do those trades, which add nothing to the stock of provision, tend to increase the number of the people?

f. The fact is, that the business of one half of mankind is, to set the other half at work; that is, to provide articles which, by tempting the desires, may stimulate the industry of those, upon the exertion of whose industry the production of human provision depends. A certain portion only of human labour is, or can be, *productive*; the rest is *instrumental*.

From the proposition "that employment universally promotes population," it follows, that the comparative utility of different branches of commerce is measured by the number which each branch *employs*.

*g.* The *first* place therefore belongs to the exchange of wrought goods for raw materials. The *second* place is due to that commerce, which barter one species of wrought goods for another. The *last*, the lowest, and most disadvantageous species of commerce, is the exportation of raw materials in return for wrought goods.

The principles already established, will enable us to describe the effects upon population which may be expected from the following important articles of national conduct and economy.

*h. I. Emigration.*—Emigration may be either the overflowing of a country, or the desertion. Here emigration neither indicates any political decay, nor in truth diminishes the number of the people; nor ought to be prohibited or discouraged. But emigrants may relinquish their country, from a sense of insecurity or oppression. Neither, again, *here* is it emigration which wastes the people, but the evils that occasion it. Lastly: men may be tempted to change their situation by the allurements of a better climate: by the prospect of wealth: or by the mere nominal advantage of higher wages. This class of emigrants will never be numerous. With the generality of people, the attachment of mankind to their homes and country will outweigh, so long as men possess the necessaries of life in safety. There appear, therefore, to be few cases in which emigration can be prohibited, with advantage to the state.

*II. Colonization.*—Colonization tends to augment the population of the parent state. The colonists raise corn, or rear cattle, and with corn and cattle purchase woollen cloth, &c. from their countrymen at home. The mother-country, meanwhile, derives from this connexion an increase both of provision and employment. It promotes at once the two great requisites upon which the facility of subsistence, and by consequence the state of popu-

lation depend,—*production and distribution*; and this in a manner the most direct and beneficial.

III. *Money*. — Where *money* abounds, the people are generally numerous. Of employment, money is partly the indication, and partly the cause. Money *flows into* a country in return for goods sent out of it, or work performed by it; and the way in which money is *retained in* a country, is by the country's supplying in a great measure, its own consumption of manufactures. Consequently, the quantity of money found in a country denotes the amount of labour and employment: but still, employment, not money, is the cause of population; the accumulation of money being merely a collateral effect of the same cause.

But money may become also a real and an operative *cause* of population, by acting as a stimulus to industry, and by facilitating the means of subsistence. The ease of subsistence depends neither upon the price of labour, nor upon the price of provision, but upon the proportion which one bears to the other. Now the influx of money tends to advance this proportion; that is, every fresh accession of money raises the price of labour before it raises the price of provision. When money is brought from abroad, the persons into whose hands it first arrives, apply it to the purchase and payment of labour. The money ere long comes to market for provision. Its effect, therefore, upon the price of art and labour, will *precede* its effect upon the price of provision. Every fresh *accession* of money has this effect, and *vice versa*.

i. The *balance of trade* with any foreign nation is said to be against or in favour of a country, simply as it tends to carry money out, or bring it in, that is, according as the price of the imports exceeds or falls short of the price of the exports.

IV. *Taxation*. — As *taxes* take nothing out of a country, as they do not diminish the public stock, only vary the distribution of it; they are not necessa-

rily prejudicial to population. If however money passes by taxation from the industrious to the idle, from those who want to those who abound, much harm is done. For instance; a tax upon coaches, to be laid out in the repair of roads, would probably improve the population of the neighbourhood; a tax upon cottages to be ultimately expended in the purchase and support of coaches, would certainly diminish it. In like manner, a tax upon wine or tea distributed in bounties to fishermen or husbandmen, would augment the provision of a country; a tax upon fisheries and husbandry to be converted for the procuring of wine or tea for the idle and the opulent, would naturally impair the public stock. The effect, therefore, of taxes, depends not so much upon the amount of the sum levied, as upon the object of the tax and the application.

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Shew that the quantity of happiness in a given district is chiefly affected by alteration of the numbers. *a.* 1—3. What are the requisites necessary to the success of population? *b.* I, II. On what points does "the ease and certainty with which a provision can be procured" depend? *c.* 1—3. How does luxury affect population? *d.* What is the connexion between population and *employment*, and in what does the utility of *trade* consist? *e.* How do those trades, which add nothing to the stock of provision, affect population? *f.* Explain the relative importance of different kinds of commerce. *g.* What effects upon population may be expected; from *Emigration*? (*h.* I.) from *Colonization*? (*h.* II.) from *Money*? (*h.* III.) from *Taxation*? (*h.* IV.) What is meant by the *balance of trade* being against or in favour of a country? *i.*

## CHAP. XII.

## OF WAR AND MILITARY ESTABLISHMENTS.

a. Because the Christian Scriptures describe wars as what they are, as crimes or judgments, some have been led to believe that it is unlawful for a Christian to bear arms. But it may be necessary for individuals to unite their force, and for this end to resign themselves to the direction of a common will. The profession of a soldier is nowhere forbidden in Scripture. It was of a Roman centurion that Christ pronounced that memorable eulogy, "I have not found so great faith, no, not in Israel."\* The first Gentile convert † received into the Christian church, and to whom the Gospel was imparted by the immediate and especial direction of Heaven, held the same station: and we cannot discover the smallest intimation, that Cornelius, upon becoming a Christian, quitted the service of the Roman legion.

b. There exists amongst sovereigns a system of artificial jurisprudence under the name of the *law of nations*. In this code are found the rules which determine the right to vacant or newly-discovered countries: those which relate to the protection of fugitives, the privileges of ambassadors, &c. These rules derive their moral force not from their internal reasonableness or justice, but simply from the fact of their being established, and the general duty of conforming to established rules upon questions, and between parties, where nothing but positive rules can

\* Luke vii. 9.

† Acts x. 1.

prevent disputes, and where disputes are followed by such destructive consequences.

War may be considered with a view,

I. *To its causes.*

c. The *justifying* causes of war are, deliberate invasions of right, and the necessity of maintaining such a balance of power amongst neighbouring nations as that no single state, or confederacy of states, be strong enough to overwhelm the rest. The objects of just war are, precaution, defence, or reparation.

The *insufficient* causes or *unjustifiable* motives of war are, the family alliances, or the personal quarrels, of princes; the internal disputes which are carried on in other nations; the extension of territory, or of trade; the misfortunes or accidental weakness of a neighbouring or rival nation.

The enlargement of territory by conquest is not only not a just object of war, but generally, not even desirable. There are, however, two cases in which the extension of territory may be of real advantage, and to both parties.

d. 1. For the obtaining of natural boundaries and barriers.

2. For the including under the same government those who have a common danger and a common enemy to guard against.

II. *To its conduct.*

e. If the cause and end of war be justifiable, all the means that appear necessary to the end, are justifiable also. Let it be observed, however, that the licence of war authorizes no acts of hostility but what are necessary or conducive to the end and object of the war. Gratuitous barbarities borrow no excuse from this plea: such as the slaughter of captives, the subjecting of them to indignities or torture, the profanation of temples, the demolition of public buildings, &c. These enormities are prohibited not only by the practice of civilized nations, but by the law of

nature itself; as containing that which in peace and war is equally unjustifiable—ultimate and gratuitous mischief.

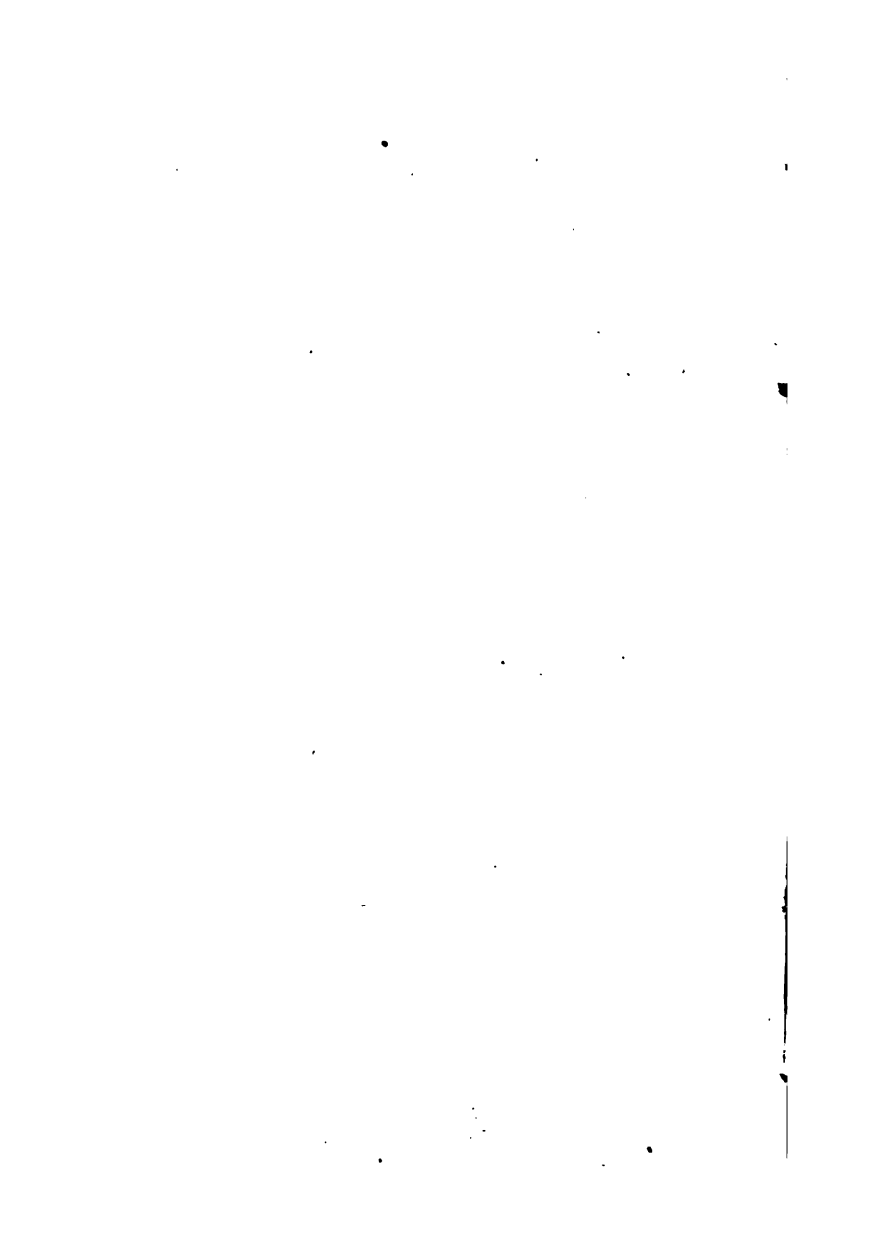
*f.* There are other restrictions imposed on the conduct of war, by the *laws of war* first, and by the law of nature as ratifying the laws of war. The laws of war are part of the law of nations: and founded, as to their authority, upon the fact of their being established; upon the expectation of their being mutually observed, in consequence of that establishment; and upon the general utility which results from such observance.

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Is the *profession of arms* lawful? *a.* What is implied by the *law of nations*, and from whence do these rules derive their moral force? *b.* Mention the causes of war—*justifiable* and *unjustifiable*. *c.* When may a war be justly waged for the purpose of gaining an extension of territory? *d.* 1, 2. What principles should regulate the *conduct* of war? *e.* What is meant by the *laws of war*, and whence do they derive their authority? *f.*

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## SENATE-HOUSE EXAMINATION PAPERS.

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### I.

1. How is morality taught in Scripture? Is the necessity of the science of Moral Philosophy thereby superseded?

2. How does Paley establish the position that the pleasures of ambition and superiority are common to all conditions?

3. Answer the objection "that the Christian religion has not ascertained the precise quantity of virtue necessary to salvation."

4. Distinguish between the particular and general bad consequences of actions. What are the particular and what the general consequences of forgery, breaking into a house empty of inhabitants, an officer's breaking his parole?

5. What are adventitious rights? How are they created? Shew that they are not less sacred than natural rights.

6. Whence arises the obligation to perform promises? Is a promise binding which is extorted by violence or fear?

7. Are wills of natural or adventitious right? How does the answer to this bear upon the determination of the question "whether an informal will be binding upon the conscience of the heir at law?"

8. What are the three methods of bestowing bounty which prefer an especial claim to attention?

9. What are the reasons founded upon utility which make the cultivation of gratitude a duty?

10. How far is drunkenness an excuse for the crimes committed by a person in that condition?

11. What are the uses proposed by the institution of the Christian sabbath? By what acts and omissions is the duty of the day in consequence violated?

12. How may the subjects of a state be classed with reference to the motives of their obedience to civil government?

13. There are two methods of administering penal justice. State them, and point out the superiority of the one adopted in this country.

## II.

1. How does Paley account for the general approbation of virtue without the assistance of a moral sense?

2. Shew that happiness depends in a great measure upon the prudent constitution of the habits.

3. A state of happiness hereafter is not to be expected by those who are conscious of no moral or religious rule.

4. "Whatever is expedient is right." Under what limitation is the term *expedient* here used? How is the maxim, "not to do evil that good may come," to be explained upon Paley's principle?

5. Distinguish between perfect and imperfect rights; and shew whence it is that a person may have a right to a thing, and yet no right to use the means necessary to obtain it.

6. In what cases are promises not binding?

7. What is the signification of an Oath? Are there any reasons for supposing that God will punish perjury with more severity than a lie?

8. Define Slavery. From what causes may it arise consistently with the law of nature?

9. Shew that the prohibitions of revenge found in Scripture were not intended to interfere with the prosecution of public offenders.

10. If we deny to the individual a right over his own life, how can we reconcile with the law of nature the right which the state claims and exercises over the lives of its subjects?

11. Shew the duty and advantages of Public Worship.

12. Mention some of the obvious and important inferences which result from the substitution of expediency in the room of all implied compacts between the citizen and the state.

13. What are the advantages and disadvantages of an absolute monarchy, and a republic, respectively?

### III.

1. Define virtue. Explain the nature of habitual virtue.

2. In what sense is the word *obliged* used when we say "a man is obliged to do any thing"? What answer is furnished by this explanation to the question, "Why am I obliged to keep my word?"

3. What are the methods of arriving at a knowledge of the will of God concerning any action?

4. Shew the necessity of general rules to every moral government.

5. Upon what foundation does the right of *extreme necessity* depend?

6. What are the principal advantages arising from the institution of property?

7. In what cases may an office be discharged by deputy?

8. From what considerations does it appear that we are *bound* to bestow relief upon the poor?

9. In what cases may an office be discharged by deputy?

10. When is a lawsuit inconsistent with no rule of the Gospel?

11. How does the unlawfulness of suicide appear from the authority of the Christian Scriptures?

12. What are the properties required in a public liturgy?

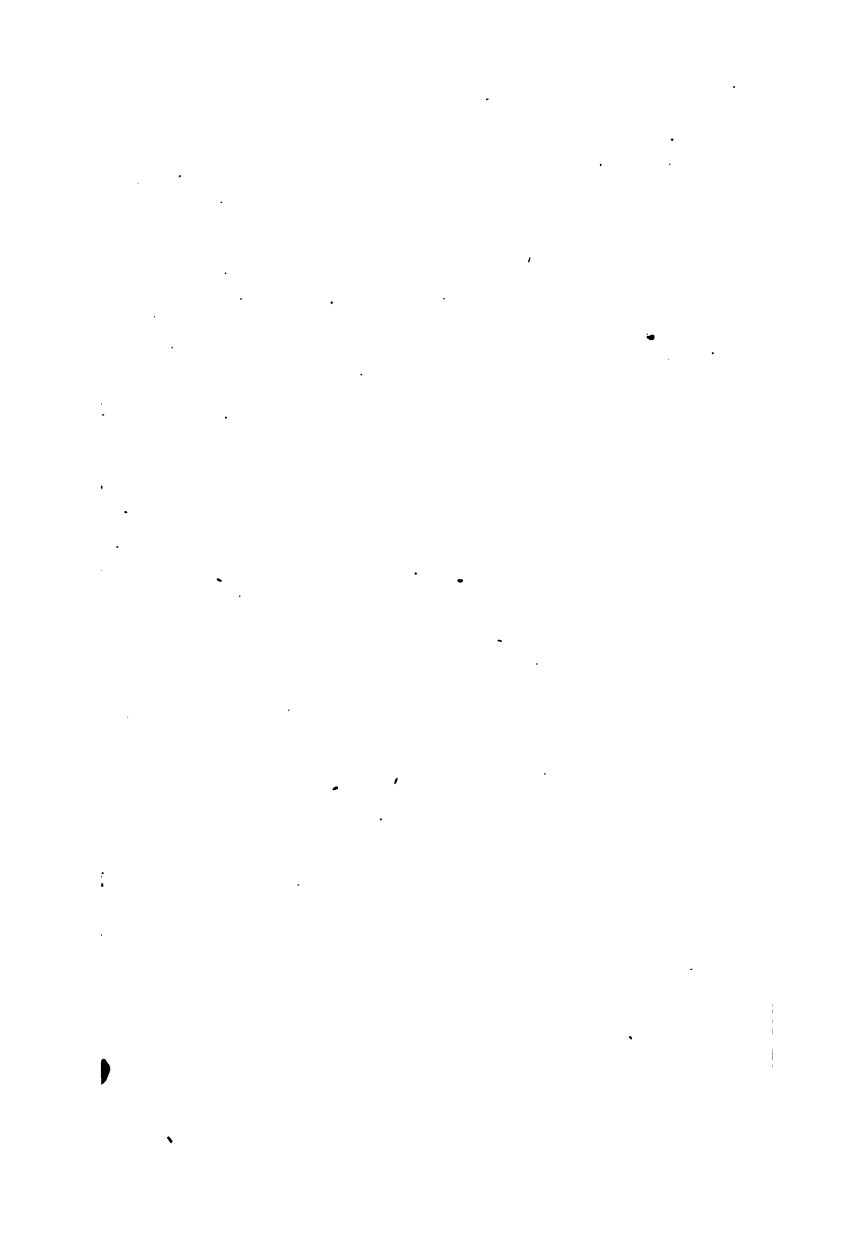
13. State the reasons which induced Paley to prefer a monarchical to a republican form of government.

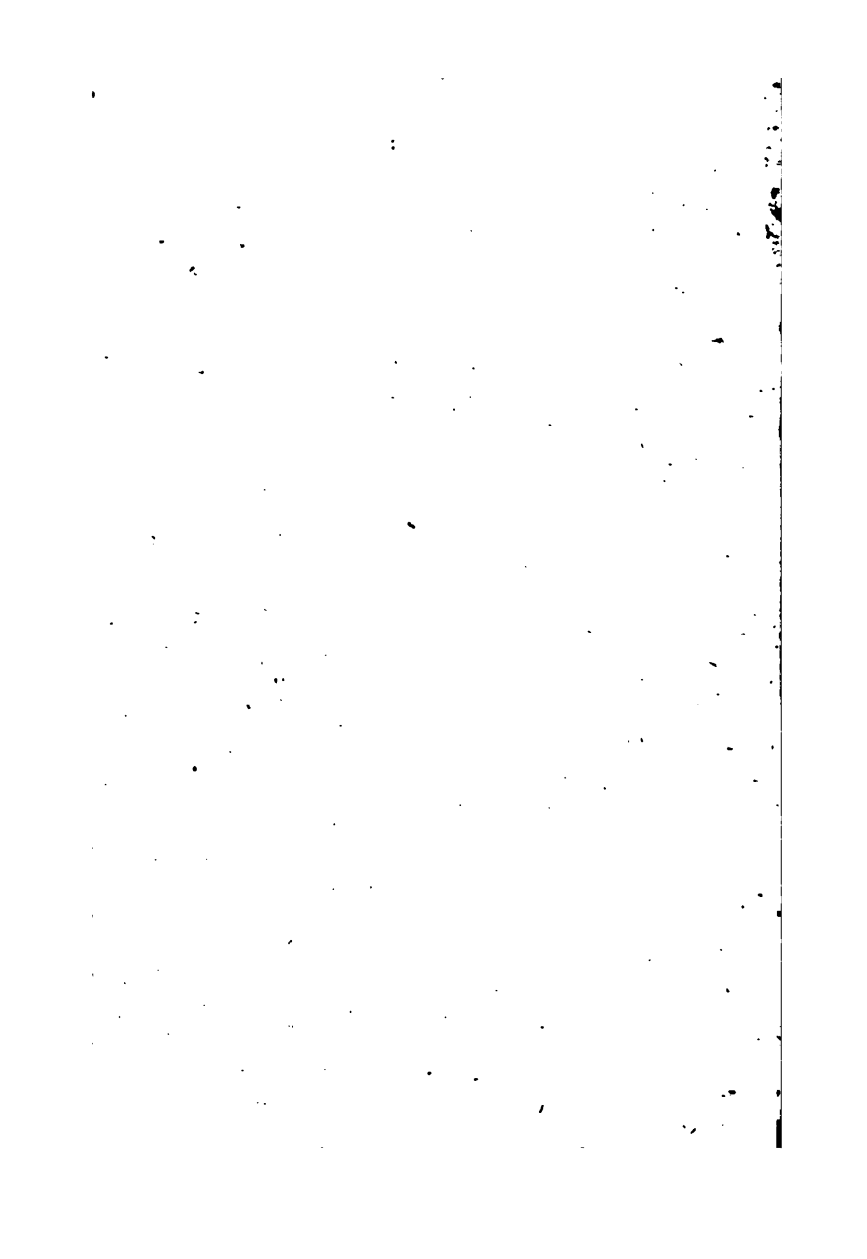
14. What is the proper end of punishment? How is the measure of its severity to be regulated?



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